



The South African Dispute Settlement Accreditation Council

Accreditation of mediation service providers

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Accreditation of mediation service providers

1. Introduction

- a) Registration as an Accredited Service Provider ('ASP') will be open to any organisation whose principal purpose or objective is the provision of dispute resolution services (mediation, arbitration, conciliation, facilitation) and which meets the requirements of the Council.
- b) ASPs will have the ability to accredit mediators in accordance with the mediation accreditation standards set by the Council. To qualify for accreditation as a service provider an organisation must therefore be able to demonstrate its ability to properly fulfil this function.
- c) Organisations providing only training or ancillary services will not be able to accredit as service providers. They will however be able to obtain accreditation for their training programmes, trainers and assessors.

2. Annual registration

- a) Registration will be for a 24-month period: it must be renewed to remain accredited.
- b) Registration and renewal will involve the organisation meeting the registration criteria and lodging with the Council the standard registration application containing all the required registration information, and the registration fee.
- c) Registration will not be automatic following payment of the registration fee. The Council will have the right to decline an application to accredit if the ASP does not appear to meet the registration criteria or fails to lodge or continually to display the Registration Information on its website.
- d) The Council may at any time request:
 - i) confirmation of any of the registration criteria, or
 - ii) to inspect the activities of the ASP to confirm that it complies with the registration criteria.

Failure by the ASP to adhere to such request may result in refusal of its registration, or the lodging of a complaint in accordance with paragraph 15 below.

3. Details of region of operations and number of mediators

The organisation must list:

- a) The geographic area covered by its panel of mediators;
- b) The types of dispute which it undertakes.

4. Mediator management

ASPs are responsible for mediation management. This includes the following:

- a) Published standards that meet the Council's minimum accreditation standards
- b) Transparent accreditation process in line with the Council standards
- c) Expertise to perform assessment of membership applications
- d) Qualifying Continued Professional Development ('CPD') programme, or access to such a programme
- e) Performance monitoring of its panel members

- f) Process for submission of mediator details for registration with the Council

5. Standards of conduct

ASPs must:

- a) Subscribe to a code of professional conduct that meets Council standards
- b) Subscribe to a complaints system that meets Council standards
- c) Subscribe to a disciplinary process that meets Council standards
- d) Require mediators to subject themselves to these standards of conduct

6. Sound governance structures, and appropriate administrative resources

ASPs must demonstrate or produce:

- a) Compliance with all regulatory and statutory requirements for registration and on-going conduct of business
- b) Current tax clearance certificate
- c) Details of ownership and management including particulars of:
 - i) Shareholders and shareholding
 - ii) Directors
 - iii) Executive management
 - iv) Senior staff
 - v) Name of auditors
 - vi) The responsible person who will deal with Council matters
- d) Sufficient details of case management, administrative systems and record-keeping so as to demonstrate competency.
- e) Contact telephone numbers during normal business hours.

7. Financial viability and management of 3rd party funds

ASPs are often required to work with members' funds (for example deposits for arbitrators / mediators). For this reason the Council is obliged to consider the on-going viability of ASPs, as well as the measures in place for managing members' party funds. ASPs are therefore required to disclose the following within 6 months of their yearend:

- a) Disclosure of the process in terms of which members' funds are managed. It is required that such funds shall be kept separate from any other funds managed by the ASP.
- b) A statement by the ASP's auditors / bookkeepers that all third party funds were administered in accordance with the ASP's internal processes. If not, full details of any deviation must be supplied.

8. Transparent and published details of services and costs

ASPs must publish:

- a) A description of services (including process rules, where appropriate)
- b) Details of fee structures

9. Indemnity insurance

ASPs must have a level of professional indemnity insurance for the organisation and its officials to the satisfaction of the Council.

10. Publication of registration information

ASPs must display their registration information (see annexure A) on their websites.

11. Additional requirements

- a) ASPs may from time to time be required to meet all additional requirements that are published by the users of mediation services (for example the Department of Justice).
- b) ASPs may request the Council to investigate and certify compliance with such requirements.

12. The process of registration

- a) The secretariat of the Council (for purposes of this process called the registrar) will be the point of contact for the Council.
- b) The process will operate as follows:
 - i) The registrar will receive the application together with the prescribed fee
 - ii) The payment of the due fee will be checked and the fee banked.
 - iii) The registrar will assess compliance with the accreditation requirements
 - iv) The registrar will then present the application to the Council for approval
 - v) If the Council is also satisfied then the registrar will:
 - (1) notify the applicant
 - (2) send the applicant a high definition version of the Council logo for use on their website;
 - (3) allocate a registration number to the ASP and notify the ASP of that registration number;
 - (4) update the Council website with the organisation's name and link; and
 - (5) ensure that the ASP receives a renewal notice in 22 months time.

13. Registration difficulties

- a) If the registrar believes that an applicant has failed to meet the accreditation requirement or display on its website all of the registration information, the registrar shall in the first instance ask the applicant for the required information.
- b) If the applicant still does not in the opinion of the registrar comply then the registrar will notify the chairperson of the Council of the problem. The chairperson will approach the applicant for the required information.
- c) If the required information is not forthcoming within 14 days the chairperson will notify the Council that an application has been declined (with written reasons) and cause the registration fee to be returned in 28 days if there is to be no appeal.
- d) If the applicant wishes to challenge the decision of the chairperson it may appeal to the Council. If the appeal is dismissed the registration fee will be retained by the Council.

14. De-registration

- a) Once an organisation is accredited it will only lose registration if
 - i) It fails to renew after 24 months by reason of:
 - (1) its failure to provide the required renewal form; and/or
 - (2) it fails to pay the required fees. In every case the ASP will be sent one electronic notice to renew by the registrar 22 months after the date of its first registration (or its last renewal of registration); and, if necessary, a single reminder by the registrar six weeks later. If the organisation takes no action the Council will serve a notice of de-registration and cause its entry on the Council website to be removed. The notice of deregistration will require the organisation to cease using the Council logo. It will be copied to the Council executive.
 - ii) It comes to the notice of the Council that the organisation has ceased to trade or to operate, is wound up, or dissolved.
 - iii) It comes to the notice of the Council that the organisation has been placed into liquidation or administration, or has otherwise become insolvent.
 - iv) The organisation or its officials, officers, directors or employees in the course of their duties is or are found by a court or tribunal in any country to have or to be engaged in unlawful activities.
 - v) As a result of a finding by the Council under section 15 below that the organisation is no longer fit to be a ASP.

15. Complaint as to fitness to remain accredited

- a) A complaint under this heading can only be made on the ground that the organisation fails to comply with one of the requirements set out above for accredited ASPs. This is not a general complaints procedure. Any other complaint, for example about an organisation's service, must be dealt with through that accredited organisation's own complaints procedures
- b) Where an ASP or its officials, officers, directors or employees in the course of their duties is or are found by a court or tribunal in any country to have or to be engaged in unlawful activities, the Council Registrar shall lodge a complaint setting out details of the offence.
- c) Any person, body or organisation (including a member of the Council) may make a complaint to the Council about an ASP's fitness to remain accredited. A complaint about fitness must be made in writing and signed by (or on behalf of) the complainant. It will be addressed to the registrar.
- d) Upon receipt of such a complaint the Council shall deal with the matter in any way it deems appropriate, subject to the rules of natural justice. A complaint shall not be considered by the Council unless the nature of the complaint is likely to raise a real rather than merely fanciful question as to the fitness of the ASP to remain accredited.

ANNEXURE A: ACCREDITATION INFORMATION TO BE PUBLISHED ON WEBSITE OF SERVICE PROVIDER

A. Basic Information

- (1) the full name and business address of the organisation;
- (2) the organisation's email, website and telephone contact details for a personal contact point at the organisation for telephone calls during normal working hours;
- (3) the company/charity registration number of the organisation (if any);
- (4) the name of the person responsible for the registration information;
- (5) the year that the organisation was first accredited by the Council;
- (6) a statement that the organisation and its mediators is covered by professional indemnity insurance to the extent required by the Council from time to time;
- (7) the Region(s) covered by its panel of mediators.

B. Practice Information

- (8) a Code of professional conduct for its mediators that meets the Council recommendation;
- (9) a statement that it has adopted and follows the Council Code of Good Conduct for ASPs;
- (10) details of its internal complaints procedure;
- (11) a statement of the minimum requirements for a person to be one of its panel mediators, which shall be not less than the Council requirement of a minimum of 40 hours training together with a successful assessment;
- (12) a statement of the minimum amount of mediation-specific CPD each panel member is required to undertake, and
- (14) the types of mediation which it undertakes in line with the categories prescribed by the Council from time to time.