

Rules for Mediation - Alliance of Private Sector Practitioners

These rules are intended as a **guide** for the conduct of an informal mediation

- where an aggrieved member of the public (with justifiable cause), complainant, or claimant raises a complaint or concern against a member / registrant – particularly as regards what would normally be called “clinical negligence” or clinical dispute cases
- where the Mediator then forms the view that it is possible for “matters to be put right” by a quick, fair and inexpensive informal process by the engagement and agreement of the parties with the Mediator
- with a view to avoiding escalation of a concern to an expensive adversarial style litigation and where the complaint is not so serious as to warrant disciplinary proceedings against the member / registrant so as to assist with settlement
- Mediation involves the confidential process by which a person acting as a Mediator assists the parties in reaching a mutually acceptable agreement. It is an informal and non-adversarial process. The role of the Mediator is to assist in identifying the issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise, and finding points of agreement as well as legitimate points of disagreement. Final decision-making authority rests with the parties, not the Mediator. It is anticipated that an agreement may not resolve all of the disputed issues, but the process, nonetheless, can narrow the issues in dispute. Parties are required to mediate in good faith, but are not compelled to reach an agreement. As mediation is a confidential procedure, openness, candour, admissions and apologies are encouraged and ought not to void any insurance by reason of the privilege from disclosure in any subsequent legal proceedings.
- Mediation also aims to maintain and/or restore the client/Practitioner relationship in an open and transparent way
- Resolving the dispute or putting matters right is an essential aim of mediation so as to assist with settlement, to put right any matter that has gone wrong and to promote the provision of medical or rehabilitation treatment to address the needs of the claimant at the earliest opportunity.