

Alternative Dispute Resolution Committee – NMAS Requirements

CONTACT US

FAX: (08) 9324 8699

MAIL: The Law Society of Western Australia
PO Box Z5345, Perth WA 6831
(DX 173 PERTH)

EMAIL: info@lawsocietywa.asn.au

ENQUIRIES: (08) 9324 8600

IN PERSON: The Law Society of Western Australia,
Level 4, 160 St Georges Terrace
Perth WA 6000

NMAS Accreditation Checklist

Below is a checklist for Alternative Dispute Resolution Committee Members when considering applications for accreditation as mediators under the National Mediator Accreditation System (NMAS), and applications for renewal of accreditation.

The NMAS stipulates Approval Standards and Practice Standards.

The Approval Standards specify the training, assessment, personal qualities and experience required of an applicant for accreditation and for renewal of their accreditation.

The Practice Standards specify the minimum practice and competency requirements of an NMAS Accredited Mediator.

Accordingly, for the present purposes, the below checklist summarises what is required from the Approval Standards.

By their nature, some of the Approval Standards' requirements for accreditation in fact logically arise only for reaccreditation; those and other issues are indicated in the footnotes to the checklist.

ORIGINAL ACCREDITATION

CHARACTER ETC

- Provide written references of good character from two community members who have known the applicant for more than 3 years – or demonstrate the equivalent derived from another system (AS 2.1(a))
- Disclose: disqualification from any professional practice; any criminal conviction; anything impairing capacity to perform in a competent, honest and professional manner (AS 2.1(b)-(d))
- Disclose if any previous NMAS accreditation or renewal has been refused, suspended or cancelled (AS 2.1(e))
- Comply with the Approval Standards, the Practice Standards, and other relevant standards¹ and legislation (AS 2.1(f))
- Pay the MSB registration fee (AS 2.1(g))
- Become and remain a member of the Law Society (as the relevant RMAB) or of an equivalent organisation having a relevant ethical code or standard and a complaints and disciplinary procedure that can address complaints against mediators (AS 2.1(h))²
- Acknowledge that the Law Society can disclose information about the applicant to the MSB which can release it to other RMABs upon request (AS 2.1(i))
- Have relevant P.I. insurance or statutory immunity (AS 2.1(j))

TRAINING AND ASSESSMENT

- Complete a training programme within the 6 months leading to assessment as competent, and satisfying the following (AS 2.2):
 - 38 hours' training completed within a 24 month period (AS 2.3(a))

- Training by at least two trainers, the principal one of which has more than 3 years' experience both as an NMAS accredited mediator and as a trainer (AS 2.3(b))
- Be observed by different coaches in two simulated mediations of at least 1.5 hours each. The coaches must be NMAS accredited mediators and have 2 years' or 50 hours' mediation experience and who provide written feedback to trainees (AS 2.3(c) and (d))
- Participate in at least nine simulated mediations (three or more in which they perform the role of mediator) (AS 2.3(e))
- The content must include the knowledge, skills and ethical principles set out in the Practice Standards (AS 2.3(f))
- Be assessed as competent in a process requiring the following:
 - Performance of the role of a mediator in a simulated mediation of at least 1.5 hours, observed by an assessor (whether in real time or by a recording) with no coaching (AS 2.4(a) and (b))
 - An assessor who is NMAS accredited and independent with at least 3 years' mediation experience (AS 2.4(c))
 - Assessment criteria reflecting the knowledge, skills and ethical principles in the Practice Standards (AS 2.4(d))
- Provision of written feedback by the assessor assessing the applicant's performance and stating the outcome. The applicant is to be supplied with a copy of the pro forma assessment form a reasonable time prior to the assessment (AS 2.4(e) and (f))

1. AS 2.1(f): Its logical effect is to require this compliance once accredited, so is not necessary at the point of seeking accreditation.

2. Strictly speaking the LPCC, not the Law Society, is the body that can address such complaints. But to be a Law Society member requires certification in WA as a legal practitioner, in turn making the person subject to the jurisdiction and processes of the LPCC.

- In the alternative to the abovementioned training and assessment requirements, the applicant may alternatively meet the requirements by producing evidence of the following:

COMPARABLE TRAINING AND ASSESSMENT

- Having completed a mediator training course at least comparable to the training course described above and having been found competent in the assessment describe above (AS 2.5(a))

OR

EXPERIENCE, EDUCATION AND ASSESSMENT

- Providing evidence to the Law Society of having conducted at least 100 hours of mediation, plus the continuing accreditation requirements described under "Accreditation Renewal" below within the 2 years prior to the application (AS 2.5(b)(i))

- Two references attesting to mediation competence (AS 2.5(b)(ii))

- Satisfying the Law Society of mediator training, supervision or education, and having been found competent in the assessment described above (AS 2.5(b)(iii) and (iv))

OR

CALD KNOWLEDGE, EXPERIENCE AND ASSESSMENT

- Providing evidence to the Law Society that the applicant possesses appropriate mediation experience and knowledge of the unique values and traditions within the culturally and linguistically diverse (CALD) community with which the mediator identifies (AS 2.5(c)(i))

- Providing two references as to competence as a mediator, and having been found competent in the assessment as detailed above (AS 2.5(c)(iii))

ACCREDITATION RENEWAL

- Satisfy the abovementioned requirements as to character and experience (except for references), and provide evidence of having conducted mediations and engaged in the CPD described below, in the 2 years preceding (AS 3.1)

- Must have conducted at least 25 hours of mediation, co-mediation or conciliation within the 2 years (AS 3.2)

- Alternatively to the 25 hours mentioned above, if by reason of lack of work opportunities, health or career circumstances, or residence in non-urban or CALD communities, must have conducted at least 10 hours of mediation, co-mediation or conciliation and attend such supplementary training, coaching and/or assessment as the Law Society considers necessary in addition to the CPD required below in order to address the shortfall. Such renewal cannot be sought or granted for more than 3 consecutive renewals (AS 3.3)

- At least 25 hours of CPD contributing to the knowledge, skills and ethical principles contained in the Practice Standards and which can be made up as follows (AS 3.5):

- Participating in education, up to 20 hours (meaning formal structured activities such as training seminars and workshops (up to 20 hours) or attending conferences (up to 15 hours))

- Reflecting on practice, up to 15 hours (meaning receiving professional supervision or coaching or participating in structured peer-based reflection on mediation cases)

- Providing profession development, up to 15 hours (meaning delivering presentations on mediation or related topics including 2 hours' preparation for each hour delivered, or providing professional supervision, assessment, coaching or mentoring of mediator trainees and mediators)

- Credit for related professional CPD, up to 10 hours (meaning hours of CPD completed to maintain related professional licensing or accreditation such as in law or in the behavioural or social sciences or in the professional field in which they mediate (e.g. building or engineering))

- Learning from practice, up to 8 hours (meaning participating in up to four mediations as a client representative, or formal learning capacity (up to 2 hours per mediation), or role playing for trainee mediators and candidates for mediator assessment (up to 2 hours per simulation))

- Self directed learning, up to 5 hours (meaning private study, or writing published materials relevant to mediation in recognised journals or by recognised publishers)

- Other, up to 5 hours (meaning such other activities as may be approved by the MSB on application by the Law Society)

- A mediator who does not meet the abovementioned CPD requirements in full, due to health or career circumstances or residence in non-urban or CALD communities, must undertake sufficient supplementary CPD to meet the requirements (AS 3.6)

- Pay the MSB registration fee at the time of accreditation renewal unless the Law Society pays that fee to the MSB on their behalf (AS 3.7)

- All these requirements must be met within two months of the due date for renewal, failing which their accreditation automatically lapses (AS 3.8)

- CPD hours relied upon for any one renewal must not be used for any subsequent renewal of accreditation (AS 3.9)