

**Certificate in Mediation
Level 8, QQI (Special Purpose Award)**

Module 2: Mediation Ethics and Regulatory Framework

Stage					1			
Semester								
Module Title					Mediation Ethics and Regulatory Framework			
Module Number					2			
Module Status					Mandatory			
Module ECTS Credits					5			
Module NFQ level					8			
Pre-Requisite Module Titles								
Co-Requisite Module Titles								
Capstone Module?								
List of Module Teaching Personnel								
Contact Hours					Non-contact Hours			Total Effort (hours)
14					86			100
Lecture	Lecture - Remote	Practical	Tutorial	Seminar	Assignment	Placement	Independent Work	
8	6				30		56	100
Allocation of Marks (Within the Module)								
	Continuous Assessment	Project	Practical	Final Examination				Total
Percentage Contribution	100%							100%

Intended Module Learning Outcomes

On successful completion of this module the learner will be able to:

1. Identify the differences between the various forms of dispute resolution available to disputing parties and demonstrate an ability to exercise appropriate judgement when mediation may or may not be more suitable.
2. Explain how proposed legislative changes may affect both the mediation landscape in Ireland and an individual mediator in their daily work;
3. Demonstrate how legislation can impact on the principles of voluntariness and confidentiality in mediation;
4. Explain the protections, or lack thereof, that exist for a mediator in the legal environment;
5. Communicate the impact of Agreements to Mediate and Mediated Agreements in the context of the principles of the law of contract;
6. Demonstrate familiarity with and evaluate the various professional codes of ethics present in mediation in Ireland;
7. Explain the process, ethics and principles of mediation to potential parties in a mediation.

Module Objectives

This module aims to give learners a clear understanding of the legal and ethical landscape within which mediation is practised so that learners may embark upon a career in mediation, confident of the parameters within which they work. The objective is to provide focussed knowledge of the legislation relevant to the area of mediation in Ireland, and where to find this information.

Learners will extend their knowledge of the principles of mediation as well as absorbing learners into the comparatively narrow legislative scheme within which the individual mediator and the mediation industry generally operates. It develops the learner's understanding of ethical considerations in the field of mediation and cultivates their ability to evaluate the ethical code of practice of one organisation of mediators vis-à-vis another. It allows the learner to apply knowledge and skills and exercise professional judgement in identifying an appropriate forum for disputing parties.

Module Curriculum

1. History and development of mediation
2. Dispute resolution models compared and analysed / Mediation in Context (on the ADR Spectrum)
3. Criteria for assessing the suitability of mediation
4. The Irish legislative system and how it relates to the regulatory environment in which Mediation now finds itself.
5. A discussion of legislative provisions impacting on mediation
6. Codes of ethics – (Comparing the codes of ethics and conduct of different sources and accrediting bodies)

7. Ethical considerations in implementing the core principles
8. The interplay between principles of mediation and law.
9. Mediators privilege
10. The Agreement to Mediate
11. The Mediated Agreement
12. Status of Agreements (binding or non-binding) & the Law of Contract

Reading lists and other learning materials

Primary Reading:

- Law Reform Commission, *Report on Alternative Dispute Resolution: Mediation and Conciliation*, [LRC 98-2010]
- Madigan, Josepha, *'Appropriate Dispute Resolution (ADR) in Ireland'*, Jordan Publishing Ltd, 2012
- Mackie, Miles, March, Allen, *The ADR Practice Guide – commercial Dispute Resolution*, Tottel Publishing

Secondary Reading:

- Holohan, Bill, *Mediation: A fact of Life and Our Duty to Advise*, Arbitration and ADR Review Issue 2
- Carey, Gearóid, *Reasonableness and Mediation: A new Direction?* Irish Law Times (2010) 28 ILT 207
- Dowling-Hussey, Arran, *The Mediation Directive: Was the wait worth it?*, Irish Law Times (2008) 26 ILT 235
- Nestic, M. and Boulle, L., *Mediation: Principles, Process, Practice*, LexisNexis Butterworths 2005
- Streeter-Schaefer, H, A look at court mandated civil mediation, 49 Drake L. Rev. 367 2000-2001
- Rogers, Nancy and Craig McEwen, *Mediation: Law, Policy and Practice*, 2nd ed., New York: Clark, Boardman and Callaghan, 1994
- Riskin, Leonard and James E. Westbrook, *Dispute Resolution and Lawyers*, St. Paul: West Publishing, 1987
- Singer, L., *Settling Disputes: Conflict Resolution In Business, Families and the Legal System*, Boulder: Westview Press, 1990

Journals (non-exhaustive list of journals available to students via some of the numerous Griffith College database subscriptions)

- *Journal of Dispute Resolution*, University of Missouri School of Law. (accessible through Heinonline)
- *Arbitration*, (accessible through Westlaw.co.uk)
- *Irish Law Times*, (Westlaw.ie)
- *Conflict Resolution Quarterly*, Association for Conflict Resolution, Jossey-Bass Publishers. (Business Source Premier)
- *Negotiation Journal*, Plenum Press. (Business Source Premier)

- *Dispute Resolution Journal*, Ohio State University School of Law. (Business Source Premier)
- *Dispute Resolution Magazine*, American Bar Association (Heinonline)
- *Employee Relations Law Journal*, Aspen Publishers Inc. (Business Source Premier)
- *International Journal of Human Resource Management*, (Education Resource Complete)
- *Research Journal of Social Science & Management*, (ERIC)

Module Learning Environment

Accommodation

A base classroom is used for module delivery and teaching. Participants also have access to online teaching resources and Moodle¹. The use of guest speakers from practice will allow for discussion around real issues encountered in the field.

Library

All learners have access to an extensive range of “actual” and “remote access” library resources. The library monitors and updates its resources on an on-going basis, in line with the College’s Library Acquisition Policy. Lecturers update reading lists for this programme on an annual basis as is the norm with all programmes run by Griffith College.

Module Teaching and Learning Strategy

This module will be delivered through a series of tutor-led discussions, group-work sessions, online lectures and related exercises, and will be supplemented by appropriate structured web-based resources and reading materials. The module will make extensive use of enquiry based learning and problem based learning and will suggest solutions for critical incidents experienced by participants. Formative assessment and feedback will underpin all elements of the teaching and learning strategy in this module.

It is recognised that the learner cohort is expected to be drawn from a diversity of learning and experience backgrounds. Mindful of same, delivery of the course will be executed using the below learning strategies which best accommodate such a situation. Furthermore, a short instructional recording instruction for those with a non-law background on the basics of Irish law that would be helpful to meaningfully participate in this module will be provided.

One day of lectures (6 hours) will be recorded and streamed through our online learning intranet system (Moodle), with options for interactive discussion with lecturers on the discussion forum. The learner will be required to view this lecture in

¹ Moodle is Griffith College’s current Virtual Learning Environment (VLE)

advance of attending the live full day lecture (8 hours) as well as prepare certain readings. The tutor will be available for Q&A via an interactive discussion board.

The teaching and learning strategies have been chosen for their ability to instil high levels of participant engagement and development. Collaboration underpins all learning strategies adopted. Participants will debate and critique many legal concepts during each session which will have a highly participative and practical element.

Pre-readings will be forwarded to all participants prior to commencement of this module. An example of how pre-reading will form part of the teaching and learning strategy would include for example an activity whereby different groups of participants would pre-read different codes of ethics and become “experts” with the others in their own group on that code of ethics before sharing this with others in the class and thereafter debating the merits of various codes of ethics as against each other.

Module Assessment Strategy

The module will be assessed by way of a 1500 - 2000 word essay/discussion paper to include reference to academic commentary. This is deemed the most appropriate assessment method for this module as the depth of research required lends itself best to an academic paper of this nature. The scope of the assessment covers both applicable legislation and a dissection of codes of ethics so that learners can demonstrate knowledge of both the regulatory environment in which the mediation industry exists, as well as a depth of understanding of the ethical considerations impacting upon an individual mediator.

Element No.	Weighting	Type	Description	Module Learning outcomes
1	100%	Assignment	<p>In a written discussion paper this assignment will assess the learner on:</p> <ol style="list-style-type: none"> 1. their understanding of the impact of legislation on the principles of mediation; and 2. their ability to critically dissect multiple codes of ethics and evidence deep understanding of ethical considerations in mediation. 	1-7