

Module 2 Mediation Ethics and Regulatory Framework

1.1.1 Module aims and objectives

The Mediation Ethics and Regulatory Framework module gives 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 extend their knowledge of the principles of mediation as well as becoming absorbed into the comparatively narrow legislative scheme within which the individual mediator and the mediation industry generally operates. This module develops learners' 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 learners to apply knowledge and skills and exercise professional judgement in identifying an appropriate forum for disputing parties.

1.1.2 Minimum intended module learning outcomes

On successful completion of this module, learners can:

- (i) Critically analyse 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.
- (ii) Evaluate how legislative changes and regulatory choices may affect both the mediation landscape in Ireland and an individual mediator in their daily work;
- (iii) Demonstrate how legislation can impact on the principles of voluntariness and confidentiality in mediation;
- (iv) Differentiate the protections, or lack thereof, that exist for a mediator in the legal environment;
- (v) Effectively communicate the impact of Agreements to Mediate and Mediated Agreements in the context of contract law;
- (vi) Critically evaluate the various professional codes of ethics present in mediation in Ireland;
- (vii) Effectively communicate the process, ethics and principles of mediation to potential parties in a mediation;
- (viii) Critically reflect upon his or her application of the law and ethics within the mediation process.

1.1.3 Rationale for inclusion of the module in the programme and its contribution to the overall MIPLOs

Learners have previously gained a grounding in the area of mediation and now focus on the law and mediation, codes of ethics and mediation agreements. The module learning outcomes are specifically aligned to a number of the programme's minimum intended learning outcomes, for example, the module supports learners to:

- (i) Demonstrate an understanding of theories, concepts and current awareness pertaining to the field of mediation.
- (ii) Demonstrate understanding of current legislation, principles and ethical best practice in relation to mediation.
- (iii) Exercise appropriate judgement at detecting and managing problem content in mediation and adapt accordingly, utilising appropriate techniques in order to manage a given mediation session optimally.

1.1.4 Information provided to learners about the module

Learners receive the following resources and materials in advance of commencement:

- Module descriptor with module learning outcomes
- Assignment and project brief with assessment strategy
- Reading materials and Notes

Module related support and reference material is made available online using Moodle, the College VLE. Moodle also provides learners with access to a range of relevant resources and activities, for example library, video resources, and links to college related supports.

1.1.5 Module content, organisation and structure

Mediation Ethics and Regulatory Framework is a 5 ECTS credit module taught and assessed over 14 hours of lectures.

Module Content

- History and development of mediation,
- Dispute resolution models compared and analysed,
- Mediation in context on the ADR Spectrum,
- Criteria for assessing the suitability of mediation,
- Mediation Act 2017,
- Codes of ethics,
- Comparing the codes of ethics and conduct of different sources and accrediting bodies,
- Ethical considerations in implementing the core principles,
- The interplay between principles of mediation and law,
- Mediators privilege,
- The Agreement to Mediate,
- The Mediated Agreement,
- Status of Agreements (binding or non-binding) and the Law of Contract.

1.1.6 Module teaching and learning (including formative assessment) strategy

This module is delivered by means of participative lectures which consist of tutorial-style discussions, group work sessions and exercises. Formative assessment is provided through tutorial-style discussions, group work and exercises which focus on specific scenarios and problem-based scenarios. These require learners to analyse case studies and apply the mediation process to practical disputes or issues. The module is supplemented by structured web-based resources and reading materials. Self- and peer-assessment is used as key formative tools. Learners have an opportunity to review and analyse different mediation agreements. Learners also have an opportunity to observe role plays and to offer peer feedback.

The teaching and learning strategies have been chosen for their ability to instil high levels of learner engagement and development. Each teaching session has a highly participative and practical element, fostered by encouragement of class interaction and interspersed with chances for learners to practice skills learned. The conflict materials provided require the sharing of experiences in group discussion.

Pre-readings are forwarded to all learners prior to commencement of the module. These readings equip learners with the basic outline of the module, including answering relevant self-evaluation questionnaires, thereby saving time whereby the tutor is available for more valuable analysis.

Structured web-based resources are provided for learners to enable them to interact with the tutor and each other in the online learning environment, reducing the isolation any learner may feel during the period between the in-person days of the module and the other modules on the programme.

Independent learning for Module 2 is 103 hours in total which comprises research, assignment drafting and reflective journal writing, an indicative breakdown of learner hours being 40% of time dedicated to research, 30% of time dedicated to assignment drafting and 30% of time dedicated to reflective journal writing.

1.1.7 E-learning

Moodle, the College VLE, is used to disseminate notes, advice, and online resources to support the learners. Learners are also given access to Lynda.com as a resource for reference.

1.1.8 Module physical resource requirements

The module requires the use of a suitably equipped classroom that can accommodate flexible participative engagement. Learners require online access to Moodle the College VLE, and can avail of various open labs on campus and in the library.

The College's physical and online library provides dedicated access to extensive online legal research tools (JustisOne, Westlaw, Hein Online).

1.1.9 Reading lists and other information resources

Madigan, J., Appropriate Dispute Resolution (ADR) in Ireland: A Handbook for Family Lawyers and Their Clients, Jordan Publishing (2012)

O'Sullivan, G., The Mediator's Toolkit: Formulating and Asking Questions for Successful Outcomes, New Society Publishers (2018)

Beer, J., Packard, C., Elwood Gates, E., Stief, E., The Mediator's Handbook: Revised and Expanded, 4th edition, New Society Publishers (2012)

Fisher, R., Ury, W. & Patton, B. Getting to Yes: Negotiating Agreements without Giving In. Boston: Houghton Mifflin Company (2011)

McRedmond, P., Mediation Law, Bloomsbury Professional (2018)
Mediation Act, 2017

1.1.10 Module summative assessment strategy

The module is assessed in two parts;

Part 1: This involves a 2000 to 2,200-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.

Part 2: This involves a reflective professional development mediation Reflective Journal. This 700-word Reflective Journal requires learners to reflect on their learning throughout the module, as well as on their practical training and assessments. On completion of all three modules' related Reflective Journals, the combined programme related Reflective Journal constitutes an in-depth self-reflective, structured work, that can be used as a tool in future study and practice/employment.

No.	Description	MIMLOs	Weighting
1	Assignment	(i) to (vi)	80%
2	Reflective Journal (CA)	(i) to (viii)	20%

1.1.11 Sample assessment materials

Sample assessments for the module are available on Moodle and in workbook.