

**SINGAPORE MEDIATION CENTRE
DISCIPLINARY RULES FOR MEDIATORS**

1. Filling of Complaint

- 1.1 These rules shall be known as the SMC Disciplinary Rules for Mediators (“**Disciplinary Rules**”).
- 1.2 “Mediator” shall mean the individual or individuals appointed, or to be appointed, to conduct the mediation.
- 1.3 These Disciplinary Rules shall apply to a Mediator who:
- (a) conducts a mediation service provided by the Singapore Mediation Centre (“**SMC**”);
or
 - (b) acts as a mediator in the dispute resolution schemes administered or implemented by the SMC as determined by the SMC.
- 1.4 The Complaint shall be made in writing in the form of a Statutory Declaration, with reference to these Disciplinary Rules and addressed to the SMC.
- 1.5 The Complaint should contain full details of the following:
- (a) the allegation being made;
 - (b) the relevant supporting documents, if any; and
 - (c) reasons why the Mediator’s behaviour or actions are believed to constitute misconduct.
- 1.6 The Complaint, together with any supporting documents, shall be served by the Complainant on the Mediator complained against. The Complaint, together with any supporting documents, shall be provided by the Complainant on the same day to the SMC.
- 1.7 The Mediator shall serve a Response, together with any supporting documents, on the Complainant within 14 days of receipt of the Complaint. The Response, together with any supporting documents, shall be provided by the Mediator on the same day to the SMC.
- 1.8 The Complainant may serve on the Mediator, a Reply to the points raised in the Response within 7 days of receipt of the Response. The Reply shall be provided by the Complainant on the same day to the SMC.

2. Communications and Service of Documents

- 2.1 Any communication and provision of documents to the SMC in relation to these Disciplinary Rules shall be made in writing and conveyed (i) by hand, or by registered post; **and** (ii) by electronic mail to smc_enquiries@sal.org.sg. The date of provision of the communication and/or documents to the SMC shall be the earlier of the date of receipt in (i) and (ii).
- 2.2 Any communications between the Complainant and Mediator, including the service of any documents in relation to these Disciplinary Rules, must be undertaken (i) by hand, or by

registered post; **and**(ii) by electronic mail to the other party's last known address. The date of service of the communication and/or documents to the receiving party shall be the earlier of the date of service in (i) and (ii).

3. Misconduct

3.1 Misconduct is defined as any breach of the Mediation Procedure Rules Code of Conduct ("**Code of Conduct**") and shall include any failure on the part of a Mediator to comply with any direction or order issued by any of the committees or tribunal constituted under these Disciplinary Rules.

4. Professional Conduct Panel

4.1 A Professional Conduct Panel ("**PCP**") shall be established. The panel shall be appointed by the Chairperson of the SMC (the "**Chairperson**") for a term of three years, or such other term as determined by the Chairperson, and shall constitute:

- (a) no more than 8 members who are mediators; and
- (b) no more than 4 members who are non-mediators.

4.2 The members of the PCP shall serve on the Inquiry Committee ("**IC**"), Review and Discipline Committee ("**RDC**"), or the Disciplinary Appeals Tribunal ("**DAT**") as set out in these Disciplinary Rules.

4.3 The Chairperson, or any person nominated by the Chairperson ("**Nominee**"), shall appoint the members of the IC, RDC and/or DAT.

4.4 Notwithstanding Rule 4.1, the Chairperson, or the Nominee, shall have the discretion to appoint any mediator or non-mediator to serve on the IC, RDC and/or DAT on an *ad-hoc*, non-term basis for any particular Complaint made.

5. Inquiry Committee

5.1 Within 14 days of the filing of a Complaint, the Chairperson or Nominee shall constitute an IC of two persons, one of whom shall be appointed as the chairperson of the IC ("**IC Chairperson**").

5.2 The members of the IC may serve on the IC provided he or she:

- (a) has no interest in the mediation or in the outcome of the review and/or disciplinary proceedings; and
- (b) had not served earlier in any inquiry or disciplinary proceedings relating to the same matter.

5.3 The IC shall review the Complaint, the Response and the Reply, if any, and in appropriate situations, invite the Complainant and the Mediator to resolve the matter by mediation.

5.4 Within 14 days from the expiry of the last day for the Complainant to serve a Reply pursuant to Rule 1.8, or where there is no Response, within 14 days from the expiry of the last day for the Mediator to serve a Response pursuant to Rule 1.7, or such extended time as the IC Chairperson may allow in writing, the IC shall:

- (a) dismiss the complaint;
 - (b) if the IC is of the view that there is a case of misconduct, but that no cause of sufficient gravity exists for a full review, the IC may notify the Mediator of the misconduct but take no further action; or
 - (c) recommend the conduct of a full review by the RDC.
- 5.5 The IC shall state its reasons in writing for its decision (the “**IC Decision**”) and provide its decision to the SMC.
- 5.6 The IC, through the SMC, shall provide a copy of the IC Decision on the Mediator and the Complainant within seven days from the date of the IC Decision.
- 5.7 The IC Decision in Rules 5.4(a) and 5.4(b) shall be made only by unanimous vote. If there is no unanimous vote, or if either member of the IC is of the view that a full review should be conducted, the IC shall direct that a full review be conducted.

6. Review and Discipline Committee

- 6.1 Where a full review is recommended by the IC, and if the Chairperson or Nominee deems appropriate, the Chairperson or Nominee shall, within 14 days of the date of the IC Decision, appoint a mediator and parties shall be invited to resolve the Complaint by mediation within two months (or such extended time as the Chairperson may allow in writing) of parties being informed of the IC Decision. Both the Complainant and the Mediator shall be notified accordingly.
- 6.2 If the Complaint is resolved through mediation, it shall be deemed withdrawn.
- 6.3 If the Complaint is not resolved by mediation (or otherwise), the Chairperson or Nominee shall constitute a RDC of three persons, one of whom shall be appointed as the chairperson of the RDC (“**RDC Chairperson**”).
- 6.4 The members of the RDC may serve on the RDC provided he or she:
- (a) has no interest in the mediation or in the outcome of the review and/or disciplinary proceedings; and
 - (b) had not served earlier in any inquiry or disciplinary proceedings relating to the same matter.
- 6.5 The RDC shall:
- (a) determine the scope of its jurisdiction;
 - (b) issue such directions as appropriate for the better conduct of the proceedings;
 - (c) decide on any finding of law, fact, evidence or any issue referred to in the Complaint, the Response and the Reply, if any;
 - (d) operate on the civil burden of proof, namely the balance of probabilities; and

- (e) conduct a hearing unless the RDC considers that the matter may be reasonably conducted without such a hearing.
- 6.6 The RDC shall, through the SMC, deliver its determination (“**RDC Determination**”) within 60 days from the date of its constitution. If the RDC requires more time to deliver its determination, the RDC shall, through the SMC, inform the Complainant and Mediator of such extension of time in writing.
- 6.7 The RDC Determination shall be made by majority vote.
- 6.8 Where the RDC determines that the case for misconduct against the Mediator has not been made out, the Complaint shall be dismissed.
- 6.9 Where the RDC determines that the case for misconduct against the Mediator has been made out, it may determine that one or more of the following courses of action to be taken:
- (a) notify the Mediator of the misconduct but take no further action;
 - (b) reprimand or warn the Mediator as to his/her future conduct;
 - (c) suspend the Mediator from the panel(s) of mediators administered by the SMC for a period not exceeding 24 months during which period the Mediator shall not be appointed to any matter;
 - (d) require the Mediator to take such additional training or mentoring as may be prescribed in the RDC Determination; and/or
 - (e) remove the Mediator from the panel(s) of mediators administered by the SMC.
- 6.10 The RDC shall state its reasons in writing in the RDC Determination and provide its decision to the SMC.
- 6.11 The RDC, through the SMC, shall provide a copy of the RDC Determination on the Mediator and the Complainant within seven days from the date of receipt of the SMC receiving the RDC Determination.

7. Appeal to the Disciplinary Appeals Tribunal

- 7.1 The Complainant and/or the Mediator shall have the right to appeal (the “**Appellant**”) against the RDC Determination by serving a statement of appeal (“**Statement of Appeal**”) on the respondent (the “**Respondent**”) within 14 days from the date of receipt of the RDC Determination. The Appellant shall provide the Statement of Appeal to the SMC on the same day.
- 7.2 The Respondent shall be entitled to serve a statement in response to the Statement of Appeal (“**Response to the Appeal**”) within 14 days of receipt of the Statement of Appeal. A Response to the Appeal shall be served on the Appellant and provided to the SMC on the same day.
- 7.3 Within 14 days from the date of receipt of the Statement of Appeal by the SMC, the Chairperson or Nominee shall constitute a committee of three members to form the DAT.
- 7.4 The members of the DAT may serve on the DAT provided he or she:

- (a) has no interest in the mediation or in the outcome of the review and/or disciplinary proceedings; and
 - (b) had not served earlier in any inquiry or disciplinary proceedings relating to the same matter.
- 7.5 The DAT is entitled to proceed only on the materials properly provided to the SMC and is not obliged to conduct a hearing unless it considers it necessary.
- 7.6 Within 30 days from the date when the Response to the Appeal is received by the DAT or from the date when the DAT is informed by the SMC that no Response to the Appeal has been served within the prescribed period, or within such extended time as the Chairperson of the DAT may allow in writing, the DAT may, by majority vote:
- (a) dismiss the Appeal and uphold the RDC Determination; or
 - (b) allow the Appeal and set aside the RDC Determination; or
 - (c) uphold the RDC Determination but vary, change or otherwise depart from the courses of action determined by the RDC (the “**DAT Determination**”).
- 7.7 The DAT shall state its reasons in writing in the DAT Determination and provide its decision to the SMC.
- 7.8 The DAT, through the SMC, shall provide a copy of the DAT Determination on the Appellant and Respondent within seven days from the date of the SMC receiving the DAT Determination.

8. Rules of Evidence

- 8.1 The rules of evidence shall not apply to the consideration and determination of matters by the IC, RDC and the DAT.

Issued by:

Singapore Mediation Centre
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