

# Competency Framework – Blended and Fully Online CMTP – Amendment to Existing (Approved) Programme

## Course Syllabus Indicating Competencies

***\*For Assessment Process and Assessment Form which sets out how competencies are assessed, see end of document***

The following competencies will be taught across all parts of the programme, online and in-person.

### Competencies

#### Learning Outcomes:

By the end of the module the students will have be able to demonstrate competence in the following skills and strategies:

#### 1. Interpersonal

- Establishes and maintains rapport with the parties, their advisers and any other attendees;
- Engages in a relaxed and confident manner and helps put parties at their ease;
- Explains the process in a way that is easy for parties to understand and engage with;
- Uses appropriate language, for example if parties are non-native speakers, simplifies the use of language and offers assistance in overcoming language barriers;
- Is sensitive to the different personalities, cultures and emotional status of participants;
- Conveys a thorough understanding of the dispute and any background information;
- Ensures parties feel respected and heard throughout the process;
- Remains attuned to parties needs and organises breaks, food and other support as required.
- Ensure all parties and participants engage in the process within the limitations of their role (e.g. ensures legal advisers do not take over at the expense of their clients).
- Asks a range of different questions (open, closed, circular, probing etc.) as required to elicit information, gain each parties perspective and elicit information.
- Listens attentively, summarises reflects and clarifies to ensure understanding and make the speaker feel heard and understood.
- Maintains balance between different participants engagement and ensure no one is interrupted, sidelined or otherwise disadvantaged.
- Encourages and facilitates direct dialogue between the parties.
- Demonstrates an appropriate use of humour.
- Remains attentive to all communication in the room, including non-verbal.

- Responds appropriately to difficult behaviour, using a range of strategies as appropriate to the circumstances such as clarifying, engaging with difficult emotions, calling a caucus and others.

## **2. Process**

- Ensure the facilities are appropriate, accessible and set up in such a way as to put parties at ease.
- Ensures Mediation Agreement is correctly drafted, understood and signed by all attendees.
- Delivers an opening statement clearly and confidently.
- Reminds parties and other participants of their confidentiality obligations where appropriate.
- Uses different session structures – joint, caucus, cross-caucus, as required and appropriate as the process evolves.
- For online mediation, ensures parties have unfettered access to appropriate technology, bandwidth and a quiet place to engage.
- Ensure the Mediation Agreement reflects the online nature of the process and contains additional confidentiality guarantees.
- Ensures that confidentiality is maintained throughout the process.
- Structures the online mediation in such a way that parties do not get fatigued through the use of technology, and can engage without distraction.
- Plans introductory sessions so that parties can get used to the technology.
- Puts backup plans in place in case of technology failure.
- Ensure parties are prepared for different sessions types through the process.
- Checks confidentiality after caucuses.
- Demonstrates neutrality and supports self-determination by refraining from directing, cajoling or nudging parties in a certain direction.
- Only makes proposals for settlement in accordance with relevant legal and ethical provisions.
- Recognises ethical dilemmas and responds appropriately.
- Recognises and manages potential and actual conflicts of interest.
- Manages time well and ensure parties do not get tired or overwhelmed.
- Gives clear guidance in relation to expectations for preparatory work for additional sessions.
- Takes the minimum amount of notes and does so in a way which does not interfere with engagement and active listening.
- Uses any visual aids thoughtfully, with purpose and to support the process.

## **3. Content**

- Helps parties draft, expand and stick to an agenda.
- Encourages the parties to focus on interests and needs, and move away from positions.
- Keep an overview of all issues under discussion and assist parties in prioritising.
- Manage parties expectations of what can be achieved.

- Shows an optimistic but realistic approach to negotiations.
- Uses techniques such as BATNA/WATNA, decision trees and similar as appropriate to assist in negotiation.
- Recognises negotiation tactics and strategies such as anchoring, phantom players and similar and responds appropriately.
- Shares information gained in caucus ethically, appropriately and with a view to moving the process on.
- Encourages parties to brainstorm and consider all possible options for resolution.
- Facilitates the making of and responding to offers.
- Assists in reality testing offers and proposals and ensuring any potential agreements are workable.
- Uses a range of strategies to overcome deadlock and impasse, and helps the parties to stick with the process.
- If agreement is reached, assists in ensuring it is drafted correctly and is recorded in a format that can be enforced, if required.
- Closes the process appropriately, ensuring all participants are clear on what steps are required next.
- If no agreement is reached, closes process safely and appropriately, ensuring parties know which options are open to them.
- Manages follow up, including billing, in a professional manner.

## **Assessment Process and Assessment Form for CMTP**

### **Assessment Process**

Candidates will participate as a Mediator in a mock- mediation of one-hour duration and may be involved in role- playing as clients. These mediations will be assessed by two different assessors, whose scores will be aggregated after both assessments are complete. The assessors will mark candidates on the basis of the Competency Framework AND must provide detailed feedback by means of

1. Directly annotating the video of the mediation, so that candidates can clearly identify where they lost or gained marks. Assessors will be provided with the software to do this.
2. Completing the Assessment Form

Candidates will be assessed in each category on the form, insofar as it arises in the scenario in assessment, and awarded a competency of between 1 and 5. Candidates are assessed on a pass / fail basis, and must be awarded a competency of 3 minimum in each category in order to pass.

In addition to this, a random sample of 50% of assessments will be moderated and verified by a different external assessor. If any concerns or discrepancies are raised by the moderator, all assessments from that group will be re-assessed (using the video) by an third party assessor.

### **For fully online programme:**

#### **Additional Assignment:**

As the course is entirely online, students must perform and video record an additional in-person, one-hour mediation roleplay. They can source people to play the role of parties and advisers themselves but must ensure they are sufficiently knowledgeable to play these roles. The recording of this role-play is sent to the course director.

Students then submit a written assignment reflecting on the role-play and addressing the following issues:

- How they would arrange and ensure a suitable venue
- How they build rapport with all participants in an in-person mediation
- Compare the experience of in-person and online mediation and how each process can be adapted from the other.

Students will receive a grade (out of 100%) and feedback on the strengths and weaknesses of their assignment.

## Assessment Form

***\*Note to assessor – You must complete the assessment feedback by annotating the assessment video in Wistia, this form is not complete without the annotated video, which should be submitted via the secure Wistia link below.***

**Name of Candidate -**

**Date of Assessment -**

**Name of Assessment -**

**Description of Dispute -**

**Link to annotated video of assessment -**

### Process Checklist

- Has the candidate explained the process accurately to the parties?
- Have they checked the parties understanding?
- Have they ensured that parties are comfortable with and understand how to use the technology being used OR
- Have they set up the room(s) appropriately?
- Have they explained the Agreement to Mediate and had it signed?
- Have they checked for conflicts of interest?

### Competencies and Comments

***Please rate the candidates demonstration of skills in each category between 1 and 5 as described below. Give detailed feedback via the video annotation feature, plus a summary of feedback in each category on this sheet below.***

***Candidates must achieve a minimum grade of 3 in EACH category in order to pass. If a category does not apply by reason of how the process unfolds, for example under “Dealing with Offers” and no offers are made, please indicate that this category is not applicable and why.***

**5 – Excellent**

**4 – Very Good**

**3 – Competent**

**2 – Below Average**

**1 – Insufficient**

**1. Mediators Opening Statement**

**Mark**

**Feedback**

**2. Managing Parties Opening Statements and Exchange**

**Mark**

**Feedback**

**3. Summarising and Reflecting**

**Mark**

**Feedback**

**4. Managing the Dialogue**

**Mark**

**Feedback**

**5. Dealing with Difficult Behaviour**

**Mark**

**Feedback**

**6. Facilitating Negotiation**

**Mark**

**Feedback**

**7. Using Negotiation Tools and Strategies**

**Mark**

**Feedback**

**8. Using appropriate communication skills**

**Mark**

**Feedback**

**9. Process management**

**Mark**

**Feedback**

**10. Managing technology-related challenges**

**Mark**

**Feedback**

**11. Use of joint sessions, caucus, cross caucus**

**Mark**

**Feedback**

**12. Dealing with offers**

**Mark**

**Feedback**

**13. Managing Impartiality**

**Mark**

**Feedback**

**14. Dealing with the unexpected**

**Mark**

**Feedback**



**15. Managing ethical challenges**

**Mark**

**Feedback**

**16. Using visual aids e.g. Flipchart**

**Mark**

**Feedback**

**17. Facilitating and recording agreement**

**Mark**

**Feedback**

**18. Managing safe exit from unsuccessful process**

**Mark**

**Feedback**

**Any Other Comments**

**Mark Summary:**

Category	Mark
1	
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PASS / FAIL (please indicate)

Signed\_\_\_\_\_

Date\_\_\_\_\_