

# Benchmarking of criteria for neutrals

supplementing 2.2 – List of neutrals, Chapter 2 – Arbitrators and mediators of *Benchmarking of mediation and arbitration rules* of institutions comparable to the UPC's Patent Mediation and Arbitration Centre

April 2025



#### List of abbreviations

AAA American Arbitration Association
ADR Alternative dispute resolution

**CEDR** Centre for Effective Dispute Resolution

**CEPEJ** European Commission for the Efficiency of Justice

**CMC** Civil Mediation Council

CMTP Certified Mediator Training Program
 CPD Continuing professional development
 EUIPO European Union Intellectual Property Office
 HKIAC Hong Kong International Arbitration Centre

**HKMAAL** Hong Kong Mediation Accreditation Association Limited

ICC International Chamber of Commerce
IMI International Mediation Institute

**LCIA** London Court of International Arbitration

Stockholm Chamber of Commerce Arbitration Institute

WIPO World Intellectual Property Organisation



# Benchmarking criteria for neutrals

Centre	Required qualifications and experience	Process of inclusion	Accreditation
EUIPO	Arbitrators: N/A  Mediators:  - staff members of the EUIPO  - accredited under internationally recognised standards	The list of mediators is established by the Executive Director. Mediators that are not staff members allocated to the Boards of Appeal are nominated by the Executive Director. Mediators who are staff members allocated to the Boards of Appeal are nominated by the Presidium of the Boards of Appeal and their names are forwarded to the Executive Director.	EUIPO mediators have undergone mediation training with internationally recognised ADR training institutions.
WIPO	Neutrals:  - legal or technical qualifications  - professional experience, including areas of intellectual property law, technical or business areas  - professional experience in dispute resolution, including court litigation, arbitration, mediation, expert determination  - publications  - professional memberships	On the WIPO Center's initiative or by application of candidates.  1. The applicant contacts the WIPO Center and requests inclusion in the WIPO List of Neutrals.  2. If not provided by the applicant, the WIPO Center requests that the applicant complete the WIPO model profile (experience, training, number of international and domestic arbitrations, etc.).  3. Applications are considered by the WIPO Center Neutrals Committee.  4. The applicant receives a communication from the WIPO Center inviting the applicant to join the WIPO List of Neutral (and to confirm their edited profile) or rejecting the application and stating that additional training or experience is required.	N/A
CEPEJ	Arbitrators: N/A  CEPEJ Guidelines on mediation  Mediators:  - officially registered and sworn in or  - accredited mediator (certified by an umbrella organisation) or  - other well-trained professional persons allowed by law to act as mediators  - selected based on their professional qualifications, experience, specialisation, education in conflict management and compliance with the rules on ethics	N/A	Guidelines on Designing and Monitoring Mediation Training Schemes  - Either public or private (profit or non-profit) bodies can provide and be entitled to accreditation for mediation training courses. An accreditation body should not act itself as a training provider to ensure its independence and avoid unfair competition.  - Training providers must not be precluded from operating also as mediation providers to facilitate and support the participants' practice as observers or co-mediators after completion of the training modules.  - Basic mediator training curriculum.  - The mediation training should be followed by supervision, mentoring and continuing professional development, maintaining, improving and refreshing the mediator's knowledge and professional skills, and educating them on new developments in the field.



Centre Required qualifications and experience Process of inclusion Accreditation

CEPEJ

- A competency framework must be included in the training programme and used throughout the course to clarify for participants what mediator competencies they should achieve. It can also be used by the trainers, coaches and assessors to provide consistent input, coaching, assessment and feedback to participants measured against a clear set of competency criteria.
- In general, there are no special requirements for previous qualifications or experience needed to enrol in a basic mediation course. Conversely, advanced or specialised mediation training courses require that participants have previous proven knowledge and/or mediation practice.
- Courses should have a substantial number of training hours being not less than 40 hours, which is the minimal acceptable benchmark for the teaching and practice of the practical aspects of mediator skills, bearing in mind that these training programmes are only intended to train people to a base level of mediator competence. This does not include pre-course preparation, lunch and breaks.
- Accreditation.
  - While some form of ongoing continual assessment throughout the course could be included as part of the assessment process, there should be at least one separate assessment based solely on performance during a role play.
  - While one assessment is the minimum, two different assessment sessions should be conducted for each participant assessed by different assessors. This would support fairness and safeguard against assessor bias. Alternatively, the same assessment may be assessed by two assessors.
- Each assessment role play should be for a minimum of one hour of role-play time, not including any time needed to draft a settlement agreement.
- If mediation knowledge is also to be assessed, this can be done through a written or verbal test, or through pre- or post-course assignments, and should be consistent with the knowledge requirements set out in the provider's competency framework.



#### Centre Required qualifications and experience

#### IMI Arbitrators: N/A

# Assessment of individuals against IMI's standards

#### Mediators:

- substantial level of experience as a mediator—typically, 200 hours or 20 mediations suffice
- strong understanding of general mediation theory and practice, which may be assessed using methods such as written tests, essays, reports, theses or interviews
- effective use of the mediation process and techniques evaluations/assessments may be based on role-play or live-action assessments and may include videotaped and online assessments such as web dramas, self-assessments, interviews, peer reviews, user feedback and other in-practice skill evaluations

#### **Process of inclusion**

Below is the information provided for potential applicants

- 1: Review your experience.
  Do you meet the minimum requirements for your preferred Certification or Specialisation?
- 2: Find a Qualifying Assessment Program.
  Find a Qualifying Assessment Program (QAP) to be assessed against IMI standards. For those eligible to become IMI Certified Mediators, this is any QAP. Once you successfully complete the assessment, the organisation delivering your QAP will request that IMI set up a Certified profile for you on IMI's website.
- 3: Appoint a Peer Reviewer.
  Appoint a reviewer to provide a
  Feedback Digest for your Certified
  profile. The Feedback Digest is an
  essential part of all IMI Certified
  profiles and must be included
  on your profile to complete your
  Certification process.
- 4: Complete your profile.
  Ensure you have filled in your profile on the IMI website, including active locations, areas of expertise, languages spoken and a profile image.
- 5: Pay your listing contribution.
  All Certified Mediators must pay an annual listing contribution.

#### Accreditation

## IMI Qualified Mediator: completing CMTP

#### **CMTP**

- Knowledge Development topics:
  - mediation principles (neutrality, voluntary nature, confidentiality, party self-determination)
- process (the opening statement by the mediator, the steps of mediation and the mediator's role within each step)
- the roles of legal counsel and representatives
- an overview of negotiation and conflict resolution theory
- mediator ethics, including any appropriate ethical standards existing in the region in question
- Skills Development topics:
  - forms of listening skills and communication strategies
  - process management skills including but not limited to the use of joint and private meetings
- negotiation strategies and skills for managing the content of the dispute
- ways of responding to the diverse behaviours of the parties
- Competency frameworkMinimum 40 hours
- Online platform
- Role plays
- Feedback from coaches (experienced mediators)
- Assessment
- At least one separate assessment based solely on performance during a role play.
- Assessments could be recorded and assessed afterwards, although live assessments are generally more advisable.
- While one assessment is the minimum, two different assessment sessions should be conducted for each participant assessed by different assessors. Alternatively, the same assessment may be assessed by two assessors.
- Each assessment role play should be for a minimum of one hour of role-play time each session, not including any time needed to draft a settlement agreement.
- Facilitate participants' further development as a mediator
- Written complaints policy for participants who are dissatisfied with the quality of the course/result of assessment



# Centre Required qualifications and experience Arbitrators: N/A

- **Mediators:**CEDR accreditation
- mediation experience and CMC compliance:
  - conducted or observed at least 10 mediations
  - undertaken at least 6 hours of mediation-specific CPD every 12 months
  - covered by professional indemnity insurance for at least £1M

#### **Process of inclusion**

**Step 1:** Yearly review of panel needs and mediator performance. Mediators who do not meet the criteria will be removed and new mediators will be considered as set out below.

Step 2: For prospective mediators to be considered, they must fulfil the requirements. Reports are compiled by the CEDR Mediator Development Manager and submitted to the CEDR Director of Commercial Disputes and Managing Director for consideration.

Step 3: The selection of new panel members is determined by the Director and Managing Director based on the criteria.

**Step 4:** Accepted mediators go through an onboarding process which includes a mentored first mediation. (Feedback is given to unsuccessful candidates.)

#### Accreditation

#### CEDR-Accredited Mediator Skills Training:

- a five-day programme covering the skills needed to mediate commercial disputes effectively
- course includes an assessment for CEDR Accreditation, internationally recognised as the standard of excellence for mediators
- curriculum:
- CEDR handbook and useful resources on the CEDR Virtual Campus
- theory, process and key skills in the early phases of mediation; sessions include phases of mediation, preparation, mediator opening, what and how to explore, active listening skills, and managing emotions
- theory, process and key skills in the later phases of mediation, bargaining and concluding; sessions include managing offers, negotiation skills, dealing with deadlock, reality testing and ethics
- mediating a case throughout the day in groups - each participant receives extensive coaching plus 1-2-1 feedback
- practical assessment, with every participant mediating once and with more 1-2-1 feedback; cases focus on the earlier phases of mediation
- practical assessment, with every participant again mediating once and further 1-2-1 feedback; looking at three cases, focusing on the middle and later phases of mediation
- after training:
- once accredited, the mediator belongs to an international community of mediators and has access to the online platform to keep learning and growing
- 1-2-1 coaching: CEDR's conflict coaching entails a 1-2-1 intervention to help the mediators negotiate a specific challenge or problem
- MyCEDR: platform giving access to exclusive masterclasses, mediation observerships, discounts and priority booking for all events
- mediation profile: help mediators establish themselves in the mediation market with guidance and training on marketing themselves as a mediator

an ongoing and regular basis.



Centre	Required qualifications and experience	Process of inclusion	Accreditation
ADR Center Manual	Neutrals: - properly trained - accredited where relevant - minimum qualification requirements - business background	The ADR Center should develop a clear policy as to the how third-party neutrals will be chosen. Some options include:  — developing a web-based tool listing mediators and arbitrators, including a brief biography; parties can use the list to choose a neutral  — developing a roster system, which the ADR Center will use to select a mediator or arbitrator  — if the arbitrators and mediators are not employed by the ADR Center, asking the mediators and arbitrators to indicate dates when they are able to mediate or arbitrate	Training:  It must be ensured that external training institutions and their methodologies used for mediation training are of a high quality.  Each ADR Center must determine what is appropriate for its needs.  Accreditation:  It is critical to ensure that the training offered is customised to suit the dispute resolution landscape within which the ADR Center will operate. Training service providers should be requested to address this issue when preparing proposals for ADR training.  It is also critical to ensure that the training service providers offer coaching and assessment as part of the training.  Each trainee should be required to mediate a specific number of disputes as part of the training programme, and these mediations should be assessed by the training service provider. If the trainee is assessed to be competent, the training service provider should offer the trainee accreditation as a mediator or arbitrator.  At the very least, the ADR Center can ensure that an independent body (the training service provider) is assessing competence and determining accreditation.  Where an individual is training to become a mediator but does not have mediation experience, it is critical for them to obtain on-the-job experience by participating in a mentorship programme in which the mediator must conduct several mediations with the assistance of a mentor. The parties will be required to give their consent for the mentor to participate in the mediation since mediation is confidential. Without such consent, the mentor cannot participate.  While accreditation by an external training service provider is useful, it is also essential that the ADR Center develops its own internal capacity to deliver training to third-party neutrals, whether as mediators or arbitrators. A train-the-trainer's course should be offered to accredited mediators who are able to train on behalf of the ADR Center.  In some jurisdictions, mediators are required to obtain a licence to practice which must be renewed on an ongoing and regular basis



Centre	Required qualifications and experience	Process of inclusion	Accreditation
ADR Center Manual			Certification:  Over the medium to longer term, each jurisdiction should establish a mediation certification body and clear competency and certification standards. These standards should require registration and licencing, with recertification at periodic intervals, and include a provision for decertification if warranted. Competency standards should also be required for those doing the certification.  In jurisdictions where a certification body cannot be established, it may be sufficient for the ADR Center to develop its own standards and combine these with the accredited mediator training as a means of regulating practice.  Continuous professional development  Accredited mediators should be required to undertake continuous professional development. This may include:  attending a certain number of training workshops within a period  conducting self-assessments for submission to the ADR Center  recording successful and unsuccessful ADR processes in a learning journal
ICC	No pre-approved list of neutrals. Neutrals may create a profile that displays their information (name, company/firm, country of residence, telephone number, specialisms, nationality, languages, arbitration experience (ICC and non-ICC related), legal expertise, other experience and contact details) upon payment of a fee. The database is not used in isolation for nominations to the ICC Court, it is simply a tool to help advertise professionals that are available to provide dispute resolution services.	Applicants create an online profile and wait for verification.  The verification process involves the ICC's United Kingdom team checking whether the details provided as part of the initial online application form are correct. This is done by cross-referencing them with the details held on the CRM database, the requester's company/chamber website and other third-party websites. It is completed within 48 hours.  Once verified, an automated email with login details for setting up a profile is sent. The applicant may at any stage publish their profile and make the information public.	N/A
LCIA	Arbitrators: The database kept by LCIA is not public. It includes arbitrator information, such as language skills and legal/industry experience. However, LCIA is not limited to this database.  Mediators: N/A	Inclusion in the LCIA Database for arbitrators can be requested via a form that requires information such as industry sector(s), profession, experience (number of cases), knowledge of national legal systems, etc.	N/A



#### Centre Required qualifications and experience

#### SCC Arbitrator

SCC does not have a list or roster of certified arbitrators. Parties may request from SCC a list of candidates that meet certain criteria.

SCC keeps an Arbitrator Registry of arbitrators that may be considered for appointment by the centre. However, the registration of information in the SCC Arbitrator Registry is neither a requirement for appointment as an arbitrator in SCC arbitrations, nor does it guarantee any such appointment. It serves as an efficient tool for matching an arbitrator's competencies with the skills and experience required of an arbitrator in individual SCC arbitrations.

Mediators: N/A

#### **Process of inclusion**

Arbitrators wishing to be considered for appointments as arbitrators in SCC arbitrations can use an online form to enter their personal information and experience.

#### Accreditation

# Diploma Course for International Arbitrators:

- three days
- nine interactive modules led by leading Swedish arbitration specialists on:
  - · arbitration agreement
  - appointment and challenge of arbitrators
  - arbitral proceedings before the tribunal
  - · interim measures
- SCC Arbitration Rules
- EU sanctions and arbitration
- · arbitral award
- for arbitral specialists with at least 10 years' experience in dispute resolution
- focused on key features and recent Swedish case law
- SAA/SCC course diploma upon completion

#### **Arbitrator Training Programme:**

- 12 sessions on Swedish and international arbitration law
- led by experienced Swedish and international arbitrators
- for lawyers with experience representing clients in Swedish and international arbitration proceedings

#### HKIAC Arbitrators:

List of arbitrators:

- substantial experience in arbitration (whether as an arbitrator, counsel, expert witness, instructing solicitor or otherwise), with at least five years of full-time arbitration experience (or equivalent)
- have drafted two arbitral awards, with sanitised versions to be submitted to HKIAC upon application or, if unavailable, two other arbitration-related documents drafted by the applicant
- two written references
- have not been found guilty by a court or disciplinary tribunal of misconduct
- links with Asia an advantage

#### Panel of Arbitrators:

- substantial experience as arbitrator
- have drafted three or more arbitral awards within the last five years, with copies of sanitised versions of two to be submitted to HKIAC upon application
- two written references
- confirm that they have not been found guilty by a court or disciplinary tribunal of misconduct
- links with Asia an advantage

#### Arbitrators:

Applicants must submit the completed form together with the supporting documents and an up-to-date CV and proposed hourly rate to HKIAC by email.

All applications are reviewed by the Secretariat to ensure that they meet the selection criteria in the Guidelines. If the criteria are met and the application is to be placed before the Appointments Committee for consideration, HKIAC informs the applicant that their application will be tabled at the next Appointments Committee meeting.

HKIAC reserves the right, at its discretion, to admit or reject applications for inclusion on its List/Panel. HKIAC may also, at its discretion, invite persons fulfilling areas of requirement, including, inter alia, nationality, country of residence, language ability and experience, to apply for inclusion on the List/Panel.

The decision of HKIAC as to whether a person is accepted for inclusion on the List/Panel is final.

#### **HKMAAL Mediation Course**

- The intended learning outcomes are to:
- educate the participants on basic principles, theory and practical knowledge on mediation
- enable participants to apply the relevant facilitative mediation skills and ethics in resolving disputes in real-life situations
- prepare participants for Stage 2 mediator assessments as per the process, core competencies and criteria
- The training course should reflect the key principles of facilitative mediation, including the use of an integrative approach in resolving conflict, confidentiality of the process, impartiality of mediator, parties' self-determination in deciding whether to settle and in what terms, and the participation of parties in face-to-face negotiations.
- Suggested content includes:
  - negotiation skills and mediation dynamics
- relationship and communication skills
- · facilitative process model
- intake and ethics



Centre	Required qualifications and experience	Process of inclusion	Accreditation
Centre HKIAC	Required qualifications and experience  Mediators:  - accreditation from the HKMAAL	Membership on the List is for three years, ending on 31 December of the third year. Membership on the Panel is for five years, ending on 31 December of the fifth year.  Mediators: Via online form.	- The lead trainer:     is involved in the General Mediation Training     has the primary responsibilities of designing course structure, selecting and/or devising educational and assessment material, delivering the programme to the trainees, and leading the other trainers and coaches in conducting objective coaching/assessment and giving feedback to trainees     have completed at least 30 cases or 300 mediation hours     have conducted mediation within three years prior to the date of application     be HKMAAL accredited     Role play must:     be done at least eight times in each course     be at least one hour each time     be given written feedback for at least one role play per training course     40 hours are to be completed in 8 weeks.  HKMAAL Stage 2 Mediator Assessmen     Completion of the training course is required.     At least two simulated cases must be mediated.     After completion, successful candidates may apply for accreditation and pay the fee.     Prior to accreditation being approved, a candidate for mediation accreditation may be called by the HKMAAL to take part in an accreditation may be called by the HKMAAL to take part in an accreditation assessment including a personal interview and a possible further simulation supervised by a suitably qualified person chosen by the HKMAAL.     Candidates who are accredited may, subject to complying with all the requirements, choose to have their names included on the Panel of HKMAAL Accredited General Mediators.     For assessing applications for accreditation, the Stage 2 assessmen result is valid for three years from the



#### Centre Required qualifications and experience **Process of inclusion** Accreditation AAA **Arbitrators:** Recorded webinars and courses on - minimum of 15 years of senior-level 1. Candidates who meet the different arbitration and mediation legal, business or professional requirements outlined in the experience Threshold Criteria section may educational degree(s) and/or submit a letter to their local AAA professional licence(s) appropriate to office explaining why they would like the applicant's field of expertise to be included on the AAA Roster of

personal resume or CV.

2. If after reviewing the candidate's

 training or experience in arbitration and/or other forms of dispute resolution

- knowledgeable on cybersecurity and

the benefits and risks associated with

 honours, awards and citations indicating leadership in the applicant's field

the relevant technology

- membership in a professional association(s)
- other relevant experience or accomplishments (e.g. published articles)
- freedom from bias and prejudice
- thorough and impartial evaluation of testimony and other evidence
- held in the highest regard by peers for integrity, fairness and good judgement
- dedicated to upholding the AAA
   Code of Ethics for Arbitrators in
   Commercial Disputes
- willingness to devote time and effort when selected to serve
- willingness to support efforts of the AAA
- willingness to successfully complete training under the guidelines of the Commercial Arbitration Development Program

#### Mediators:

- a minimum of 10 years of senior-level experience in business, industry or a profession
- educational degree(s) and/or professional licence(s) appropriate to the applicant's field of expertise
- certificate of completion or a letter from the training organisation proving completion of at least 24 total hours of training in mediation process skills encompassing conflict theory, negotiation, dynamics of the mediation process, issue identification, generating options, caucusing, managing party interaction, ethics, impasse strategies, philosophies of mediation and mediator styles, role of the mediator, and simulated mediation role plays providing performancebased evaluation

strong addition to the roster based on experience, accomplishments and reputation, an in-person meeting or teleconference with the candidate is scheduled.

3. If the AAA determines that caseloads administered by the AAA would likely benefit from the candidate being on the roster, the candidate is asked to have someone prominent

in their field submit a nomination

letter to the AAA recommending the

Arbitrators along with a copy of their

personal letter and resume the AAA

the candidate would otherwise be a

determines that there is a need in the region for someone with

the candidate's background and subject-matter expertise and that

- candidate for inclusion on the roster.

  4. When requested by the AAA to do so, the candidate should furnish letters from at least three active professionals in their field but outside any firms or professional associations in which the candidate is employed or on which the candidate currently serves as an officer, director or trustee.
- When a candidate has been provisionally accepted to the AAA Roster, the candidate must:
  - create a Panelist Resume using an AAA template or complete a Resume Information Form provided by the AAA
  - review and sign the Standards and Responsibilities for Members of the AAA Roster of Arbitrators and Mediators
  - 3. attend and successfully complete the two-day Arbitration Fundamentals and Best Practices for New AAA Arbitrators programme and an online Award Writing course

Mediators: N/A



Centre	Required qualifications and experience	Process of inclusion	Accreditation	
AAA	<ul> <li>proof of one of the following:         <ul> <li>serving as a mediator on at least five mediation cases, in the applicant's primary field of expertise, filed privately or through a court system over the last three calendar years</li> <li>serving informally in the role of a mediator on at least four different occasions over the last two calendar years (e.g. resolving disputes among business partners, employees or industry colleagues in the normal course of business)</li> <li>membership in at least one business, trade or professional association</li> </ul> </li> </ul>			



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