

The CI Arb Code of Professional and Ethical Conduct for Members

Members appointed must adhere to the Institute's Code of Professional and Ethical Conduct. The Code is published pursuant to the Bye-Laws of the Institute so that members may be reminded of the professional and moral principles which should at all times govern their conduct when acting or seeking to act as neutrals in ADR processes.

The purpose of adopting a Code of Ethics for neutrals involved in ADR is for it to serve not only as a guide but as a point of reference for users of ADR processes and to promote public confidence in dispute resolution techniques. The Code itself incorporates internationally acceptable guidelines.

In some instances the ethics set down therein may be repeated in legislation governing the relevant processes, case law or rules which parties adopt. In many instances members will also be bound by other codes of practice or conduct imposed upon them by virtue of membership of primary professional organisations.

Code Relating to the Conduct of Members when serving on Committees of the Institute, acting for the Institute or making appointments as Honorary Officers of the Institute

Rule 1 Members of the Institute

Code Relating to the Conduct of Members when acting or seeking to act as neutrals

Introduction

This Code is subject to the overriding requirements that it shall not:

- (i) require a member to act in a way that is unethical or unlawful under any other Code or law applicable to the member;
- (ii) form part of the rules of any dispute resolution process;
- (iii) override or replace the rules or applicable laws of any dispute resolution process; nor
- (iv) provide grounds for judicial review or other legal action.

Rule 1 Behaviour

A member shall not behave in a manner which might reasonably be perceived as conduct unbecoming a member of the Institute.

Rule 2 Integrity and Fairness

A member shall maintain the integrity and fairness of the dispute resolution process and shall withdraw if this is no longer possible.

Rule 3 Conflicts of Interest

Both before and throughout the dispute resolution process, a member shall disclose all interests, relationships and matters likely to affect the member's independence or impartiality or which might reasonably be perceived as likely to do so.

Where a member is or becomes aware that he or she is incapable of maintaining the required degree of independence or impartiality, the member shall promptly take such steps as may be required in the circumstances, which may include resignation or withdrawal from the process.

Rule 4 Competence

A member shall accept an appointment or act only if appropriately qualified or experienced.

A member shall not make or allow to be made on the member's behalf any representation about the member's experience or expertise which is misleading or deceptive or likely to mislead or deceive.

Rule 5 Information

Where appropriate and having regard to whether the parties are represented by professionals familiar with the dispute resolution process, the member shall ensure that the parties are informed of the procedural aspects of the process.

Rule 6 Communication

A member shall communicate with those involved in the dispute resolution process only in the manner appropriate to the process.

Rule 7 Conduct of the Process

7.1 A member shall prepare appropriately for the dispute resolution process concerned.

A member shall not be influenced by outside pressure or self interest.

A member shall not delegate any duty to decide to any other person unless permitted to do so by the parties or applicable law.

A member shall not unduly delay the completion of the dispute resolution process.

Rule 8 Trust and Confidence

A member shall abide by the relationship of trust which exists between those involved in the dispute and (unless otherwise agreed by all the parties, or permitted or required by applicable law), both during and after completion of the dispute resolution process, shall not disclose or use any confidential information acquired in the course of or for the purposes of the process.

Rule 9 Fees

A member shall charge only reasonable fees and expenses having regard to all the circumstances and shall disclose beforehand and explain to the parties to the dispute resolution process the basis upon which the fees and expenses shall be calculated and charged.



Chartered
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CI Arb

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The challenge of conflict

Planning and development, environmental and/or community disputes commonly affect individuals, communities, businesses and State interests, often arising when disagreements between competing interests remain unresolved, and often escalating into controversial, public disputes with political and administrative implications.

Inflamed and intractable conflicts of this nature incur considerable costs for all parties, including damage to trust and relationships between groups and organisations, emotional distress, delay and administrative disruption.

Such conflicts are becoming more common as society has access to greater information, enhanced communications and increasing expectations of stakeholder participation. These changes have transformed the rules of engagement in relation to development proposals and the handling of disputes.

Disputes vary in scale from local to international issues, involving diverse groups of “stakeholders”, and engaging a range of administrative and legal processes, and the full scope of private to public interests. Some disputes clearly relate to planning and development, others more loosely involve resource use, and they may or may not be viewed as environmental in nature, but all involve proposals with the potential for change in the physical environment that have impact(s) of concern for groups or individuals.

A constructive, efficient and effective response

The Chartered Institute of Arbitrators-Irish Branch (CI Arb-Irish Branch) has established a Special Interest Group to develop and promote mediation as a tool to assist in the avoidance / resolution of such conflicts.

Non-adversarial, co-operative processes are now recognised world-wide as efficient and cost effective options. Often mediation can facilitate resolution of disputes, but in cases where the final decision-making is reserved in law to a particular person or agency (i.e., the Minister of Environment or An Bord Pleanála), these approaches can supplement whatever formal decision-making is required by law, shortening the process and reducing the degree of conflict involved. This initiative aims to improve transparency and enhance stakeholder engagement in environmental and planning decision-making, resulting in better outcomes for all parties.

It is vital to recognise that most significant decisions in contentious projects are not technical decisions but value choices informed by technical information. While this is one of the reasons that these disputes engender such emotion, this also makes them ideal for neutral mediation.

Trained and certified mediators’ panel

CI Arb – Irish Branch has established a panel of accredited mediators, specially trained in this area, who can provide professional, confidential and neutral services to all those involved in a particular dispute.

Mediators (who function as process managers) are neutral and must be acceptable to all parties involved. The disputing parties are invited to participate in developing and approving the agenda, ground rules, timetable and other elements of the process. The mediators ensure that all parties are fully prepared and have opportunities for fact-finding. They then facilitate the parties in developing (a) mutually acceptable resolution(s). Mediation is a without-prejudice, non-judgemental process and all the parties’ legal rights are preserved.

Areas of dispute amenable to mediation include:

• Planning Objections and Appeals	• Roads and Transportation
• Strategic Infrastructural Schemes	• Wind Farms
• Community Projects	• Forestry
• Implementation of Developments	• Enforcement Issues
• Local Area Plans	• Taking in Charge
• Development Plans	• Resource Use Disputes

Benefits of mediation

Mediation can provide the means to secure resolution of immediate disputes, but there may also be additional benefits. Some of the potential gains include:

• Avoid or resolve conflicts and restore harmony in communities.	• Reduce project lead time and avoid contentious disputes.
• Save costs in oral and environmental legal proceedings.	• Narrow the issues in contention between stakeholders.
• Inform design for more sustainable project solutions.	• Unlock resources and energise innovation and progress.
• Cement relationships and enhance stakeholder engagement.	• Manage emotion in public conflicts and build credibility.
• Design and evaluate appropriate stakeholder consultation processes.	• Improve understanding and trust between stakeholders and public bodies.

We are the Irish Branch of the leading international organisation dedicated to Alternative Dispute Resolution (ADR). We provide a comprehensive and confidential service which will assist you in the resolution of any disputes, wherever they occur or whatever their nature. We can also assist you in better understanding the benefits of ADR and its many potential applications in the resolution of your disputes.

Established in 1981 with a permanent Secretariat in Dublin, CI Arb – Irish Branch is acknowledged to be the Dispute Resolution Centre of Ireland.

We provide all the resources you need to resolve your dispute and a range of means for doing so quickly, privately and, as has been our experience, in the majority of cases, at considerably less expense than would be incurred through the courts.

No dispute is too small or too large, and we offer a range of interventions by trained and specialist professionals, including mediation, arbitration, adjudication, expert determination and investigations.

Dispute Resolution Services

CI Arb – Irish Branch appoints and nominates Arbitrators, Mediators, Investigators, Conciliators, or Expert Determiners in the matter of all types of disputes, whether they arise under the area of commercial, consumer, contractual, family, employer/employee, insurance, property, partnership, or other.

Education and Training Services

CI Arb – Irish Branch enjoys a reputation second to none in respect of the training of Mediators, Arbitrators and Investigators.

Contact us today

If you are interested in finding out more about CI Arb – Irish Branch’s Services, why not get in touch with your requirements?

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