



# Code of Ethics for Elder Mediators

**Ninth Edition**

Dated: September 2018

**Thank-you**

The Elder Mediation International Network (EMIN) wishes to sincerely thank the many individuals and organizations who have so generously given of their time and expertise to develop and shape this Code.

In particular EMIN would like to acknowledge both the pioneering and ongoing role of Judy McCann Beranger, drafter of the first EMIN Code and the significant contributions of the Mediators' Institute of Ireland and the Elder Mediation Australasian Network to the Code Review.

Thank you also to Family Mediation Canada for their ongoing support of the Elder Mediation International Network.

**Endorsed by:**

Family Mediation Canada; Mediation PEI Inc.; Alzheimer Foundation of PEI; Ontario Association for Family Mediation; Mediator's Institute of Ireland; The Mediation Association of Switzerland; and Elder Mediation Australasian Network.

*People are invited to use this document and asked to please quote the source.  
We welcome and encourage ongoing input in relation to this Code.*

*Please note, this Code is also available in German, French and Mandarin.*

## Table of Contents

<b>1.</b>	<b>Introduction</b>	<b>1</b>
<b>2.</b>	<b>Scope of the Code</b>	<b>2</b>
<b>3.</b>	<b>Definitions and Descriptions</b>	<b>3</b>
<b>4.</b>	<b>Goals of the Elder Mediation Process</b>	<b>5</b>
<b>5.</b>	<b>Guiding Principles</b>	<b>6</b>
<b>6.</b>	<b>Professional Responsibility</b>	<b>7</b>
6.1	Relationship with Participants	7
6.2	Impartiality	7
6.3	Confidentiality	8
6.4	Ability to Participate	9
6.5	Cultural Sensitivity	10
6.6	Inter-Professional Relations	10
6.7	Where Abuse is Identified or Suspected	10
6.8	Fair Negotiations	11
6.9	Information and Advice	11
6.10	Agreement to Mediate	11
6.11	Multi-Party Mediation	12
6.12	The Written Summary	12
6.13	Suspension or Termination of the Mediation	13
6.14	Mediation Fees	13
6.15	Outreach and Promotional Activities	13
6.16	Advocacy	14
<b>7.</b>	<b>Training Requirements and Components</b>	<b>14</b>



## 1. Introduction

Elder Mediation is based on a wellness model that promotes a person-centred approach for all participants; it is mindful of the older person(s) while respecting the rights of each person participating. Regardless of the numbers present, each person is unique with his or her own narrative, intrinsic value, strengths and weaknesses. Through the Elder Mediation lens, aging is viewed as part of a continuing process of development and change, rather than just a period of physical and cognitive decline.

The specialty of Elder Mediation has a preventive component. Where people know about the service and are referred early enough, conflict can be prevented or minimized. Elder Mediation can also enable participants and families to plan in advance – for example in relation to potential care requirements – thereby ensuring that the voice of the older person is included in future decisions.

Elder Mediation can reduce the overall stress in family systems and has been shown to have health and wellness implications, enhancing the functionality of the family support network, heightening interpersonal communications and often delaying the need for institutional care. Where institutional care is involved, Elder Mediation can facilitate conversations between the older person, family members and care/service providers (See Section 6.6 *Inter-Professional Relationships* below).

Many national organizations are aware of the value of Elder Mediation and support the inclusion of Elder Mediation as part of a continuum of quality care. However, they must be confident that the Elder Mediators, to whom they are referring, are informed and appropriately qualified in mediation practices and processes, and knowledgeable of, and sensitized to, aging and age-related issues.

This Code has been devised and developed specifically for Elder Mediators working with aging and age-related issues to enable a consistent, gold standard in this important service. The Code provides information for organizations and individual mediators providing Elder Mediation services, as well as to those who can benefit from these services.

The Elder Mediation International Network (EMIN) recognizes the different codes, accreditations, structures and jurisdictional requirements in the field of mediation and this Code is intended to complement established mediation ethics and general principles of mediation.

EMIN encourages organizations providing Elder Mediation services and individual mediators working in the field of aging and age-related issues, to adhere to the Code's terms and standards, both in principle and in spirit, and to provide those who use their services with a concise statement of the ethical standards that govern their professional Elder Mediation practice.

## EMIN Code of Ethics for Elder Mediators

While legal issues often arise with aging and age-related issues, this Code does not constitute legal advice. Elder Mediators are therefore required to identify, explore and to comply with relevant jurisdictional requirements: they need to know if participants are making informed decisions and binding agreements.

Mediators working with issues of aging and age-related issues are encouraged to adhere to the EMIN standards and to become accredited as Certified EMIN Elder Mediators.

Individuals and organizations working in the field of Elder Mediation are encouraged to join EMIN's work in building a community of practice, where new mediators learn through the guided experience of Elder Mediators and, through their contextual learning, bring new enthusiasm, insight and perspective to this developing field.

## 2. Scope of the Code

This Code is a set of standards of professional behaviour for Elder Mediators. It is intended to complement developed work in related fields – for example mediation involving issues arising in relation to disability or care standards – and, as such, only applies to mediation involving issues and challenges that may arise in relation to aging. The Code sets out principles that define the ethical behaviour and values of Elder Mediators and best practice in Elder Mediation.

- 2.1 The Code provides clarity in relation to the ethical responsibilities of Elder Mediators.
- 2.2 The Code serves as an ethical guide designed to assist Elder Mediators in constructing a professional course of action that best serves those utilizing Elder Mediation services and which best promotes the values of the Elder Mediation profession.
- 2.3 The Code serves to govern the working relationships of mediators who specialize in issues of aging and age-related issues, and as a reference for the participants in relation to the manner in which the mediation will be conducted.
- 2.4 The Code serves to ensure that all those who engage in the mediation process benefit from evidence-based and peer-reviewed research.
- 2.5 Elder Mediators are required to observe the spirit as well as the letter of the provisions of the Code.
- 2.6 Elder Mediators are required to have special training in Elder Mediation and general issues of aging.
- 2.7 The Code serves as a basis for the processing of ethical complaints and inquiries initiated against an Elder Mediator.<sup>1</sup>

---

<sup>1</sup> The EMIN Complaints, Disciplinary and Appeals processes are currently under development.

### 3. Definitions and Descriptions

#### 3.1 Co-mediation

Co-mediation is the harmonious working of two complementary mediators who each have a clear idea of their role and responsibilities within the mediation process. The mediators work as a team and offer a diversity of skills, experience and personality.

#### 3.2 Confidentiality

Elder Mediation is a confidential process, and both the participants and the Elder Mediator are bound to maintain confidentiality in relation to all information arising during, as a result of, or in connection to, the mediation, unless agreed otherwise by all participants and the Elder Mediator. This allows the participants to engage in conversations, both with the Elder Mediator and between each other, that they may otherwise be reluctant to engage in.

However, to ensure safety and to prevent unintended consequences, there are conditions and qualifications to this confidentiality, as outlined in Section 6.3 Confidentiality below.

#### 3.3 Culture

Culture is defined as a set of values, norms, behaviours, and symbols shared by a group of people and influenced by ethnicity, gender, age, socio-economic status, national origin, religion, immigration status, sexual orientation, disability, physical appearance, occupation or profession, geographic setting and unique family norms.

#### 3.4 Elder Abuse

The World Health Organization<sup>2</sup> defines elder abuse as a single or repeated act, or lack of appropriate action, occurring in any relationship where there is an expectation of trust that causes harm or distress to an older person.

#### 3.5 Elder Mediation

Elder Mediation is a focused, respectful process – usually multi-party, multi-issue and intergenerational - whereby a trained Elder Mediator ensures, as much as possible, that all who need to be are present in the mediation. The mediator facilitates discussions focusing on present strengths and assists participants in exploring any issues or concerns. This form of mediation often involves many people related to the issues, such as family members, caregivers, organizations, agencies and a variety of service providers and networks.

---

<sup>2</sup> Reference: WHO Ageing and Life Course at [http://www.who.int/ageing/projects/elder\\_abuse/en/](http://www.who.int/ageing/projects/elder_abuse/en/)

### **3.6 Elder Mediator**

An Elder Mediator is a person who is professionally trained in Elder Mediation theories and practices along with its preventive and wellness aspects. The Elder Mediator facilitates communication among the participants and assists them toward mutually beneficial outcomes.

### **3.7 Elder Mediator Training**

Elder Mediator training is defined as a process through which a person acquires the knowledge and skills required for carrying out the best practices of Elder Mediation.

### **3.8 Family Conflict**

Family conflict is defined as a potential or actual conflict or dispute within any family structure. It may involve intimate or separated partners, husbands and wives, parents and children, siblings, and/or extended family members (grandparents, aunts, uncles, nieces, nephews, cousins) and significant others involved with a family member, such as a legal guardian or staff from hospitals, care homes, agencies or organisations.

### **3.9 Mediation**

Mediation is defined as a co-operative, interest-based process in which the mediator assists participants in establishing open communication and understanding about the issue/concern and supports efforts for the achievement of voluntary, mutually agreeable and sustainable outcomes.

### **3.10 Mild Cognitive Impairment (MCI)**

MCI is defined as a level of cognitive and/or memory impairment beyond that expected for normal aging but not sufficiently advanced to be called "dementia" or "Alzheimer's disease". Studies<sup>3</sup> show that 10 to 40 per cent of people with MCI will go on to develop dementia. For this reason MCI is considered a risk factor for the dementia. Researchers believe that abnormal changes in the brain may begin as early as 5-10 years before there are signs of Alzheimer's disease.

### **3.11 Participant**

Participant is defined as the person involved in the Elder Mediation process who has equal standing in contributing to mutually acceptable solutions.

### **3.12 Shuttle Mediation**

Shuttle mediation is a process in which the participants, with the assistance of a mediator, endeavour to reach an agreement without being physically brought together.

---

<sup>3</sup> Dr Matthew Summers, Wicking Centre, University of Tasmania is a senior lecturer at UTAS School of Psychology, a research fellow with the Wicking Centre and a consultant neuropsychologist.



The mediator may move between parties who are located in different rooms, or meet different parties at different times for all or part of the process.

### **3.13 Wellness**

Through the lens of Elder Mediation, wellness is viewed as a multidimensional process that encompasses all of who we are – physically, emotionally, intellectually, socially, spiritually, etc. It includes the interconnectedness we have to each other and to our communities. It embodies the conscious awareness and intention to be actively engaged in facilitating essential conversations that are often transforming for the family. This will promote heightened balance of these life forces while moving participants toward optimal health and well-being with regard to how they interact and participate with each other. The Elder Mediation process unlocks the potential for heightened well-being and improved communication when people are willing to support each other in an interconnected way.

Unlike other traditional forms of mediation, Elder Mediation is on a continuum from prevention to intervention and conflict may or may not be at the centre of concern when first contact is made. Rather it could be a need for support and sharing with the intent of participating in planning and outcomes that are preventive and proactive. With a wellness component, whether conflict driven or not, the focus is on helping all who attend to contribute towards finding new ways to promote effective, inclusive, and respectful behaviours, decisions and actions.

## **4. Goals of the Elder Mediation Process**

- 4.1 To maximize the quality of life and the quality of relationships for all participants, including the older person.
- 4.2 To be person-centred.
- 4.3 To have conversations in mediation that result in fair and workable agreements that consider the participants' shared needs while addressing immediate concerns.
- 4.4 To be preventive in nature while promoting wellness.
- 4.5 To recognize the responsibility of all participants to honour their agreements/commitments.
- 4.6 To help the participants to communicate openly and to come to a deeper understanding about the situation(s) being addressed.
- 4.7 To recognize that not all mediations will lead to mutually agreeable outcomes.

## **5. Guiding Principles**

### **5.1 Person-centred**

Supporting and honouring the people and partnerships amongst all concerned participants (individual, family, family support systems, care providers) while ensuring the preservation of self-determination, dignity and quality of life at all times.

### **5.2 Respect**

Ensuring integrity and fairness and that all participants are respected and valued during the mediation process. Mediators are committed to using respectful, inclusive language.

### **5.3 Wellness and Prevention**

Promoting overall wellness through preventative interventions.

### **5.4 Responsibility**

Maintaining accountability for achieving a viable outcome within the Elder Mediation process.

### **5.5 Equity**

Promoting equity of all participants in the mediation process regardless of gender, age, culture, religion or socio-economic status.

### **5.6 Collaboration**

Working in partnership with others to support the best outcome as determined by the participants.

### **5.7 Quality**

Ensuring the Elder Mediation process is based on the results of evidence-based research.

### **5.8 Timeliness**

Conducting the mediation process in an efficient and timely manner.

## 6. Professional Responsibility

### 6.1 Relationship with Participants

- 6.1.1 Where there is a pre-existing personal or professional relationship between a participant and the mediator, this relationship should be kept entirely separate ('at arm's-length') from the relationship in the mediation process.
- 6.1.2 Elder Mediators may occasionally consider mediating issues involving close friends, relatives, colleagues or students where all participants are in agreement. (It is recognized that in some cultures and situations only an Elder Mediator of the same or similar culture will be accepted, and in those circumstances an existing familial or collegial relationship is permitted as long as there is full disclosure.) See Item 6.2.5 below.
- 6.1.3 The Elder Mediator works with all of the participants to establish acceptable agreements/outcomes for all of the participants
- 6.1.4 The Elder Mediator has a responsibility to ensure, as far as possible, that all participants are fully aware of the interests of everyone involved in the mediation and thus enabling them to appreciate separate and individual needs.
- 6.1.6 The Elder Mediator has a responsibility to keep in mind the abilities and capacities of participants to engage in the process.

### 6.2 Impartiality

- 6.2.1 The Elder Mediator has a duty to maintain impartiality with respect to the participants and their issues.<sup>4</sup>
- 6.2.2 Notwithstanding the above, the Elder Mediator's responsibility is to ensure, as far as possible, that all participants needs and positions are clearly and fairly presented so that participants appreciate the circumstances of all those involved.
- 6.2.3 The Elder Mediator must ensure that, as far as possible, a vulnerable person has an equal voice and a fair hearing. This may require an advocate and/or agreement as to who will represent the vulnerable person.
- 6.2.4 The Elder Mediator must disclose to the participants any biases they have relating to the issues to be mediated and any circumstances that may constitute or cause a conflict of interest, real or perceived, to arise. Such disclosure must be made as soon as the mediator recognizes the potential for any bias or conflict of interest arising.
- 6.2.5 The Elder Mediator must always disclose any prior or current professional or personal involvement that they have had, or have, with any of the participants.

---

<sup>4</sup> We have chosen to use the term 'impartiality' because it accessible for families who will use our service. Some mediators prefer other terms such as 'omni-partiality' or 'multi-directional partiality'. For a detailed explanation of our understanding of the term 'impartiality' please refer to the Relationship Skills section in the EMIN Training Requirements.

## **EMIN Code of Ethics for Elder Mediators**

- 6.2.6 The Elder Mediator must refrain from mediating unless every participant expressly consents to the mediation after there has been full disclosure. In this case, the role of the mediator should be carefully distinguished from the prior relationship.

### **6.3 Confidentiality**

The Elder Mediator shall not disclose to anyone who is not a participant to the mediation any information obtained through the mediation process except:

- 6.3.1 When the information discloses an actual or potential threat to human life or safety.
- 6.3.2 When participants agree for the information to be shared with another/other person(s).
- 6.3.3 When the information discloses actual or potential abuse.
- 6.3.4 When ordered to do so by a judicial authority with jurisdiction to compel such disclosure, or required to do so by legislation or other law.
- 6.3.5 When the participants have provided written consent as part of the mediation contract for the release of non-identifying information for research or educational purposes.
- 6.3.6 When it is necessary for the Elder Mediator to respond to ethical complaints and inquiries initiated against them.

*Furthermore:*

- 6.3.7 Any information so divulged shall be limited to what is absolutely necessary or agreed.
- 6.3.8 The Elder Mediator shall inform the participants at the outset of mediation of the limitations to confidentiality and under what circumstances confidentiality would be breached.
- 6.3.9 The Elder Mediator must clarify with the participants that confidentiality extends not only to the information disclosed during mediation, but also to documents prepared specifically for or resulting from mediation except where otherwise agreed by all participants and the mediator.
- 6.3.10 When appropriate, the Elder Mediator must ask the participants to sign a release form that allows the mediator to share information with professionals but who may or may not be involved in the process at the outset.
- 6.3.11 With the participants' consent, the Elder Mediator may discuss the mediation with the participants' lawyer, and other expert advisors.
- 6.3.12 Where the participants reach an agreement, the substance of the proposed agreement may be disclosed to their respective advisors as requested.
- 6.3.13 The Elder Mediator must ensure that the storage and disposal of client records

respects the confidentiality such records require and be in accordance with the mediators' professional association standards and local legislation.

- 6.3.13 Agreements arising from an Elder Mediation should only be disclosed with the express permission of participants to the proposed agreement, unless required by local legislation or court practice.

#### **6.4 Ability to Participate**

- 6.4.1 Elder Mediators must recognize the ethical and human right of each person to make choices for themselves where possible.
- 6.4.2 Elder Mediators need to recognize each participant's capacity to give consent or agreement to mediation services and maximise opportunities for people to participate by making appropriate modifications to the process. When providing mediation services to people who have been assessed by an expert as having diminished capacity or as being unable to give voluntary consent, Elder Mediators must find appropriate ways to include their voice in decision-making or indirectly via their representatives or advocates.
- 6.4.3 Elder Mediators must recognize the need to balance the ethical rights of participants to make choices. When providing mediation services to people who are unable to give voluntary consent, Elder Mediators must include them or their representatives in decision-making as appropriate. Elder Mediators need to recognize participants' capacity to give consent or agreement to mediation services.
- 6.4.4 The Elder Mediator must explore whether the participants are cognitively capable of engaging in the mediation process or if there is/are a family member(s), advocate, professional advisor or other, who are able and appropriate to represent the person's wishes. If the Elder Mediator believes that any participant is unable to participate meaningfully, and if there is no appointed guardian ad litem or there is no agreement on who could be the spokesperson, they must suspend or terminate the mediation and encourage the participants to seek appropriate professional help. The Elder Mediator ensures, as far as possible, that all voices are represented in the mediation process.
- 6.4.5 The Elder Mediator must ensure that each participant has an opportunity to understand the implications of available options. Should a participant need additional information or assistance for negotiations to proceed in a fair, orderly and inclusive manner or for an agreement to be reached, the mediator must refer the person to appropriate resources.
- 6.4.6 If an advocate has been appointed for a participant who is not capable of consent, the Elder Mediator has a responsibility to that person (the person who is not capable of consent). The Elder Mediator and the advocate will establish the level of participation in the mediation process. (Depending on the jurisdiction concerned, the mediator must inquire as to the provisions of a living will, Power

of Attorney or similar legal documents that protect the wishes of the vulnerable person.)

## **6.5 Cultural Sensitivity**

Elder Mediators must communicate information in ways that are both developmentally and culturally appropriate through the use of clear and understandable language. When discussing issues where participants have difficulty understanding the language used by the mediator, the necessary services should be arranged (e.g., a qualified interpreter or translator) to ensure comprehension by participants. In collaboration with participants, Elder Mediators must consider cultural implications on the proceedings and, where possible, adjust their practices accordingly.

- 6.5.1 The Elder Mediator must be sensitive to cultural influences and try to develop a mediation process that is sensitive to their cultural circumstances.
- 6.5.2 Elder Mediators may withdraw from mediation when participants' cultural values are in conflict with their personal values; and must withdraw when the participants' cultural values are in conflict with this Code.

## **6.6 Inter-Professional Relations**

The Elder Mediator should respect and invite complementary relationships between mediation, legal, mental health and other service providers, and be aware of community resources appropriate for referral. The Elder Mediator should promote co-operation and awareness with other professionals and be aware of their ethical responsibility to encourage participants to use other professional resources when appropriate.

## **6.7 Where Abuse is Identified or Suspected**

- 6.7.1 When in doubt, the proper course of action is to assume that face-to-face, facilitated Elder Mediation will be inappropriate in cases involving past or present abuse. Alternatives to mediation such as shuttle mediation may be offered in serious abuse cases, but only by practitioners who have specialized education and training in this area.
- 6.7.2 Elder Mediators should inform all participants that mediators are not neutral in issues of abuse and have a duty – in many jurisdictions a legislative duty – to report past and present abuse (if relevant that a vulnerable person is in need of protection under relevant legislation) and threats of future abuse or harm.
- 6.7.3 Elder Mediators have a duty to step out of a neutral role and to act to protect the vulnerable if a formerly abusive partner engages in intimidation or abuse during a mediation or shuttle negotiation process. Usually such behaviours will result in ending the mediation and referral to a service or process that offers additional protection.

- 6.7.4 The Elder Mediator must take special care to ensure that any agreements reached in a case involving abuse are products of genuine agreement and not merely the product of financial or psychological vulnerability.

## **6.8 Fair Negotiations**

- 6.8.1 The Elder Mediator must endeavour to ensure that the participants reach agreements with informed consent, freely, voluntarily, and without undue influence.
- 6.8.2 The Elder Mediator has a duty to ensure procedural fairness — that each participant, as far as possible, has an opportunity to speak, to be heard and to articulate their own needs, interests and concerns.
- 6.8.3 The Elder Mediator has a duty to ensure balanced conversations and must not permit manipulative or intimidating tactics on the part of any participant.
- 6.8.4 The Elder Mediator has a duty, within the limits of his or her competence, to help the participants assess the feasibility and practicality of any proposed agreement in the long and short term, taking cultural differences into account.

## **6.9 Information and Advice**

- 6.9.1 It is the duty of the Elder Mediator to actively encourage the participants to make decisions based upon available information, knowledge and advice.
- 6.9.2 Elder Mediators have an ongoing obligation to advise participants of the desirability and availability of independent legal advice. While legal information may be available to the participants, each should be encouraged, in appropriate circumstances, to obtain independent legal advice.

## **6.10 Agreement to Mediate**

- 6.10.1 The Elder Mediator must explain the mediation process clearly to the participants before agreeing to mediate their issues. In particular, the Elder Mediator should:
- define and explain mediation and distinguish it from reconciliation counselling, conciliation, therapy, assessment, advocacy, adjudication and arbitration;
  - discuss the potential benefits and risks of mediation for the participants in light of their particular circumstances and the alternatives available;
  - discuss the confidentiality of mediation and the limitations of confidentiality;
  - advise the participants that they or the mediator have the right to withdraw from the process at any time;
  - make explicit the costs of mediation, and reach an agreement with the participants regarding payment;
  - advise the participants of the role and importance of legal advice;

## **EMIN Code of Ethics for Elder Mediators**

- discuss with the participants the mediator's specific procedures and practices, such as caucusing:
  - when and why separate sessions for individual participants may be held, including any rules relating to the confidentiality of such sessions;
  - when and why there are to be separate communications with the participants and their counsel;
  - when and why other persons are to be involved in the mediation.

6.10.2 Any agreement regarding the confidentiality of the mediation sessions or any waiver of such confidentiality must be acknowledged by all participants.

6.10.3 If the Elder Mediator feels, at any point, that a mediation process is beyond the scope of his or her professional abilities, s/he must inform the participants of that fact and discuss how best to proceed.

### **6.11 Multi-Party Mediation**

6.11.1 The Elder Mediator has a responsibility to ensure that all family members who are interested in providing support and/or significant others including key caregivers to a dependent person, are invited to partake of the mediation process.

6.11.2 The Elder Mediator has a responsibility to encourage reluctant participants to participate by making them aware of the benefits of participation. However, not all participants need to be part of the whole mediation process: there may be an ebb and flow of participation.

6.11.3 The Elder Mediator should facilitate the use of technology so that participants who cannot attend in person can still contribute to the sessions.

### **6.12 The Written Summary**

6.12.1 Where appropriate, the mediator will scribe, or support the parties and/or their representatives in drafting, a written summary of the agreements reached.

6.12.2 The elder mediator must encourage the participants to seek independent legal advice before entering a binding mediation agreement. In some jurisdictions, for example the Republic of Ireland, where a mediation agreement is reached, the agreement has the effect of a contract between the parties unless it is expressly stated otherwise. The elder mediator must ensure that they are aware of any jurisdictional requirements pertaining to mediation agreements.

6.12.3 The mediator must have the appropriate training and knowledge so that they have an awareness and understanding of the importance of referral to legal and/or specialist advice.

### **6.13 Suspension or Termination of Mediation**

6.13.1 It is the duty of the Elder Mediator to suspend or terminate the mediation



whenever continuation of the process is likely to harm one or more of the participants, such as when mediation is being misused - e.g. to dissipate or conceal assets - or where, in the opinion of the Elder Mediator, one or more participants are acting in bad faith.

- 6.13.2 The Elder Mediator may withdraw from mediation when they believe that any agreement being reached by the participants is unconscionable.
- 6.13.3 The Elder Mediator recognizes that each participant has the right to withdraw from the mediation. If the proposed withdrawal of a participant is due to a concern(s) in relation to the process, it is the Elder Mediator's duty to address this/these concerns, as far as possible, and to respect the decision of the participant to remain with, or to withdraw from, the mediation.
- 6.13.4 Given that many Elder Mediations are multiparty, the Elder Mediator should explore with those parties remaining within the mediation process whether there can be a benefit to continuing the mediation without the participants who have left.

#### **6.14 Mediation Fees**

- 6.14.1 The Elder Mediator will explain the fees to be charged for mediation, as well as any related costs at the beginning of the contact. The mediator must also obtain agreement from the participants as to how the payment of fees is to be shared and the method of payment.
- 6.14.2 No commissions, rebates or similar forms of remuneration shall be given or received for referral of people for mediation services.
- 6.14.3 It is inappropriate for the mediator to base fees on the outcome of the mediation process.
- 6.14.4 When a retainer has been collected before mediation services were rendered, any unearned fees should be returned promptly to the clients upon termination of mediation.

#### **6.15 Outreach and Promotional Activities**

- 6.15.1 The purpose of outreach concerning Elder Mediation should be to:
  - educate the public about the mediation process;
  - present the process of mediation objectively as one of several methods of dispute resolution.
- 6.15.2 When advertising professional services, publicity should be restricted to describing the mediator and the services offered: name, contact co-ordinates, office hours, relevant academic degree(s), relevant training and experience in mediation, appropriate professional affiliations and membership status, advantages of the mediation process and any additional relevant or important consumer information.

## **EMIN Code of Ethics for Elder Mediators**

6.15.3 Elder Mediators are not allowed to make reference to their "success rate" in mediations.

### **6.16 Advocacy**

Advocacy refers to speaking or acting on behalf of an individual or a group of persons to ensure their rights are protected.

An elder mediator may not act as an advocate to a party in a case that they themselves are mediating. Where there is a need for an advocate(s) to ensure that the rights of all are protected or to enable a vulnerable person a voice, it is the responsibility of the mediator to identify this need and to modify the process to allow for the inclusion of an appointed advocate.

## **7. Training Requirements and Components**

Mediators who are trained in the specialty of Elder Mediation are sensitized and oriented to helping families navigate the intricate life issues facing older people and their families.

Elder Mediators require specific knowledge and training to enable them to sensitively and skilfully support families and individuals in these important conversations. (For information in relation to the EMIN Certified Elder Mediator training and accreditation requirements, see [http://elder-mediation-international.net/become-elder-mediator/.](http://elder-mediation-international.net/become-elder-mediator/))

Elder Mediators are entitled to use the Cert.EM designation and the EMIN logo, indicating to those who use their service that they are knowledgeable in aging and age-related issues, have highly developed competencies, are sensitive and empathic and that their practice is informed and underpinned by an appropriate range of models and styles of mediation.