



CODE OF CONDUCT FOR PANELISTS OF THE ALTERNATIVE DISPUTE RESOLUTION INITIATIVE

1. PURPOSE

The purpose of this Code is to –

- 1.1 provide a framework for ADR Initiative panelists so that their conduct that is beyond reproach; and
- 1.2 ensure that the conduct of panelists prior to, during and after all ADR Initiative processes is seen to be fair, impartial and independent.

2. APPLICATION

- 2.1 The Code of Conduct applies to all ADR Initiative panelists and it establishes standards for the conduct required or responses expected from panelists on ethical and professional matters.
- 2.2 A breach of the Code of Conduct may result in the termination of the panelist's appointment to the ADR Initiative.

3. GENERAL OBLIGATIONS OF ADR Initiative PANELISTS

- 3.1 ADR Initiative panelists will ensure that they promote the principles of equity and social justice in order to maintain the confidence of the parties.
- 3.2 ADR Initiative panelists will at all times:
 - 3.2.1 act with honesty, impartiality and independently of any external pressure;
 - 3.2.2 perform functions with due care, skill and diligence; and
 - 3.2.3 not be swayed by fear of criticism or self-interest.
- 3.3 ADR Initiative panelists are expected to plan their work schedules in a manner that ensures that their commitments are fulfilled timeously.
- 3.4 Panelists are expected to remain abreast of relevant dispute resolution techniques, policies and guidelines, and relevant developments in statute and case law.

- 3.5 ADR Initiative panelists will ensure that their conduct at all times reflects the values of ADR Initiative which are fairness, care, excellence and integrity.
- 3.6 Panelists will observe faithfully the spirit and letter of the Constitution of South Africa and any applicable law.

4. DISCLOSURE

- 4.1 ADR Initiative panelists will disclose any interest or relationship that may affect their impartiality or which might reasonably create a perception of bias immediately upon becoming aware of the potential conflict of interests. These include:
- 4.1.1 any direct or indirect business, financial, social or family interest in the matter; and
 - 4.1.2 any anticipated, existing or past financial, business, professional, family or social relationship.
- 4.2 After disclosure, ADR Initiative panelists may continue to perform functions if the parties agree and the panelist is satisfied that the relationship will not impact on the ability to be impartial, or create a reasonable perception of bias.
- 4.3 If there is a request for recusal, ADR Initiative panelists should consider the application in the light of the terms of reference and any law before making a ruling on the matter.

5. CONDUCT OF ADR INITIATIVE PANELISTS DURING THE PROCESS

- 5.1 ADR Initiative panelists will only accept appointments if they are competent and available to conduct the process to completion.
- 5.2 ADR Initiative panelists will adhere to the terms of reference and any relevant legislation, including any timeframes set out therein.
- 5.3 ADR Initiative panelists will conduct proceedings fairly, diligently and in an even-handed manner.
- 5.4 ADR Initiative panelists should always remain professional, be patient and courteous to the parties and their representatives or witnesses and should encourage similar behaviour by all participants in the proceedings.
- 5.5 ADR Initiative panelists will not accept gifts or inducements from the parties irrespective of the intentions of the parties or the panelist. This does not preclude panelists from partaking in refreshments provided during processes.
- 5.6 ADR Initiative panelists will not solicit appointments by either party for themselves.
- 5.7 ADR Initiative panelists will not correspond directly with the parties to a dispute without copying all of the parties or their appointed representatives as well as the ADR Initiative.
- 5.8 ADR Initiative panelists should have no casual contact with any of the parties or their representatives while handling a matter without the presence or consent of the other. This does not preclude exchanges of greetings or conversation unrelated to the matter with one of the parties prior to the proceedings commencing, during an adjournment, or at the completion of proceedings.

- 5.9 ADR Initiative panelists acting as mediators should ensure that all parties are aware of the confidential nature of the proceedings and that the proceedings will take place on an off the record and "without prejudice" basis.
- 5.10 ADR Initiative panelists will not disclose the contents of mediation proceedings, unless the parties consent to the disclosure, or it is ordered by a court of law.
- 5.11 ADR Initiative panelists will ensure that at least one party makes an electronic recording of arbitration proceedings, or other proceedings which are required to be recorded. This does not preclude the panelist from also recording and storing the proceedings, which is best practice. Off-the-record processes such as mediation will not be recorded.

6. CONDUCT OF ADR INITIATIVE PANELISTS POST THE HEARING

- 6.1 On completion of a hearing, ADR Initiative panelists will -
- 6.1.1 immediately advise the ADR Initiative of the outcome;
 - 6.1.2 submit a copy of any settlement agreement within 24 hours; and / or
 - 6.1.3 submit the written outcome within seven days to the ADR Initiative.
- 6.2 The panelist will ensure that agreements, arbitration awards, rulings, recommendations or decisions are well written, definite and as concise as possible.
- 6.3 ADR Initiative panelists will not disclose a prospective award to either party prior to it being issued to both parties by ADR Initiative.

7. FEES AND EXPENSES

- 7.1 ADR Initiative panelists are subject to the fee structure of ADR Initiative and will not enter into any arrangement with the parties regarding fees.
- 7.2 ADR Initiative panelists will not solicit additional work from the parties, including past or prospective parties.
- 7.3 ADR Initiative panelists will maintain adequate records to support claims for services rendered and expenses incurred.
- 7.4 ADR Initiative panelists will ensure that their personal financial matters are in order in relation to tax and other legal requirements.