

Overview of changes to CEDR Model Documents 2023

As part of CEDR's governance, we regularly review our model documents to ensure that they still reflect best practice. CEDR's model documents include the Model Mediation Agreement, Model Mediation Procedure, and Code of Conduct for Third Party Neutrals. These are downloaded by 20,000 users annually.

For the 2023 edition, all of CEDR's model documents were reviewed and have been approved by the drafting committee.

There were three broad areas of change that the drafting committee implemented.

Firstly, the documents have been reviewed to indicate that online, in-person, and hybrid mediation is valid for the mediation process. This ability to use different formats was previously in the model documents but the committee have reviewed and amended the documents to ensure this flexibility is clear throughout. This also reflects the change in mediation since 2020 with the tenth CEDR mediation audit (2023) showing 64% of cases are now conducted online.

Secondly, the Model Mediation Agreement has been updated with language surrounding authority to heighten emphasis that the signatory is binding all representatives of the party to the terms of the mediation agreement and that someone with authority to settle will attend the mediation. This change is made to reflect the fact that with the increase of digital online signatures of the mediation agreement prior to the mediation, it is important that any person signing remotely (for example a lawyer on behalf of their client) has the appropriate authority to do so and is aware of the undertakings that they are making.

Thirdly, some provisions of the Model Mediation Procedure around practicalities, such as document exchange, mediation start time, and venue choice, have been reworded to indicate that it is for the parties to agree with the mediator, rather than for the mediator to arrange. This reinforces the importance of the parties in the mediation process.

A full list of changes to the model documents is below.

The 2023 drafting committee was comprised of CEDR mediators, lawyers, and CEDR staff. We are grateful to them for this detailed review.

2023 Model Documents Drafting Committee

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Appendix- Full list of changes to the CEDR model documents

Not listed below are very simple changes in language or grammar to improve readability (and where there is no change in meaning or emphasis).

Model Mediation Agreement		
<i>Section and changes</i>	<i>Point Number</i>	<i>Page</i>
Contract Title Page		
Dating the agreement from the last electronic signature is now possible	Contract Title Page	2
Makes it clear that the agreement relates to the named parties, mediator, and CEDR on a mediation with a scheduled date	Contract Title Page	2
The "Mediation"		
The mediation allows for communication over any media that will be compliant with the Model Mediation Procedure	3	3
Online/Remote		
Introducing the agreement for mediating online, where needed	4	3
Authority		
Improving language on the authority with which the party signatories bind the rest of their party and confirm the party will have authority to settle. It is now clear that the signatory (usually a solicitor or advisor) needs to check these two elements of authority are in place.	5	3
Confidentiality and without prejudice		
The party signatory takes responsibility for informing the parties of the provisions of confidentiality	6	3
Simplifying the language of what the mediator may communicate to CEDR	8	4
Model Mediation Procedure		
<i>Section and changes</i>	<i>Point Number</i>	<i>Page</i>
What is Mediation?		
Language now better ties the Procedure to the CEDR Code of Conduct for Third Party Neutrals, enhancing both documents.	1	2
Preparation of the Mediation		
Now better clarifies what the mediator, CEDR, and the parties will do in relation to agreeing start times, venue and/or technology arrangements, information/documentation exchange (online and physical), and importantly who is responsible for what, so that parties will better understand their responsibilities. This reduces the burden on the Mediators (and on CEDR)	4	5-6

by saying that the parties will ultimately take responsibility for agreeing factors such as start times, venue and documentation.		
Documentation		
In line with the Green Mediator Pledge CEDR would encourage digital rather than printed copies where possible.	5	7
CEDR Code of Conduct for Third Party Neutrals		
<i>Section and changes</i>	<i>Point Number</i>	<i>Page</i>
Conduct of the process		
The new wording now ties the Code to the Model Mediation Procedure where applicable.	5.1	3

