



Chartered  
Institute of  
Arbitrators

**CIArb**

## Practice Guideline 3: Termination of Mediation

These Guidelines complement, and should be read in conjunction with, the Mediation Rules of the Chartered Institute of Arbitrators, in particular Rule 11, which provides: .

### 11. Termination of the Mediation

The mediation shall end:

- 1.1 upon the signing by the parties of a written settlement agreement; or
- 1.2 upon the mediator, after consultation with the parties, informing them that in his or her opinion further attempts at securing an agreed outcome through mediation are no longer appropriate; or
- 1.3 upon written notification by any party at any time to the mediator and each other party or by the mediator to each party that the mediation is terminated. No reasons need be stated in any such notice.

1. Examples of circumstances in which the mediator **should** inform or notify the parties in accordance with Rule 11.2 and 11.3 include circumstances in which, in the mediator's opinion:
  - 1.1 the mediation proceedings are or will be in material breach of the Code of Professional and Ethical Conduct for Members of the Chartered Institute of Arbitrators (the "Code");
  - 1.2 the mediator is required by a party to do something that would be in material breach of the Code;
  - 1.3 a party is acting or is proposing to act in an unconscionable, fraudulent, materially misleading or criminal way;
  - 1.4 **the settlement agreement envisaged by the parties would be unlawful;**
  - 1.5 to continue the mediation would be likely to create or conceal a serious risk to human life or safety; or
  - 1.6 the mediator will no longer be able to act with the necessary neutrality, impartiality or independence.
2. Examples of circumstances in which the mediator **may** inform or notify the parties in accordance with Rule 11.2 and 11.3 include circumstances in which, in the mediator's opinion:
  - 2.1 a party is in breach of the mediation agreement;
  - 2.2 a party expressly or impliedly alleges that the mediator is in breach of the Code;
  - 2.3 there is such an imbalance in the parties' attitudes or relationships with one another that one or more of the parties may not be able to arrive at a freely negotiated agreement; or
  - 2.4 the mediator is unable further to assist the parties in reaching a settlement.
3. The phrase "*after consultation with the parties*" should not be interpreted as requiring the mediator to express to any party anything other than his or her opinion that the mediation should be terminated, and to discuss with each party, as may be appropriate, the possible appointment of a new mediator, any special considerations regarding how the termination should be conducted or announced, or alternative ways of resolving the matter. This phrase also includes the case where the mediator has contacted the parties in an attempt to consult and has received no response.
4. The mediator may terminate the mediation in accordance with Rule 11 even in cases where the parties are under an obligation to participate in mediation, such as an obligation arising from an agreement between the parties, from a statutory provision or from a direction or request by a court.
5. Notice of termination by the mediator should be given in writing, if possible (which includes e-mail) so as to avoid doubt as to when the termination occurred. However, consultation with the parties or any reasons for the termination which the mediator may choose to give need not be in writing.