

MEDIATION: MOVING TOWARDS A PROFESSION

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DISPUTE SETTLEMENT

At the University of Stellenbosch Business School

What is a profession?

- The Oxford dictionary defines profession as “*a paid occupation, especially one that involves prolonged training and a formal qualification.*”
- “Any occupation wishing to exercise authority must find a technical basis for it, assert an exclusive jurisdiction, link both skill and jurisdiction to standards of training and convince the public that its services are uniquely trustworthy and tied to a set of professional norms.”



What has been done?

- Voluntary regulation of the industry through:
 - DiSAC – Commercial mediation
 - NABFAM – Family mediation
- Established in 2010
- Developed and published standards by 2011
- Accredited “service providers”, mediators, courses, trainers and assessors
- Voluntary CPD
- Developing as voice of the industry
- See www.disac.co.za



What has been done?

- Qualification standards
 - Minimum qualification requirements
 - 40 hour training with assessment
 - Additional subject training (law / psychology)
 - Accredited training courses
 - Commercial mediation
 - Family mediation
 - Accredited trainers and assessors



What has been done?

- Single level of accreditation
- Accreditation standards
 - Qualification
 - Additional experience requirements
 - Good standing requirements
 - Affiliation with a service provider
- Mediators have been accredited



What has been done?

- Practice standards
 - Code of conduct based on international standards
 - Complaint and disciplinary processes
 - Managed by service providers



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We are not yet a Profession..

- Formal qualification standards
 - Move to standards based qualifications (NQF - SAQA)
 - Develop occupational qualification standards in future
 - Develop a progressive qualification pathway
- Continued professional development
 - Voluntary requirement needs to become compulsory
- “Federal” structure not ideal
 - Mediators must have direct participation in regulating industry
 - Practice supervision needs to be stronger
- Regulation has no official standing
 - Lack of recognition from Government & Public
 - Lack of participation from mediators

What are the Obstacles?

- Lack of mediation work
- Lack of financial resources
- Competition from legal fraternity
- Transformation in the industry



The way forward

- Work within the Government provided structures:
 - Registration as a “professional body” with SAQA in terms of the National Qualifications Framework Act (Act 67 of 2008)
- Already general consensus in the industry that this is the way forward.
 - Approved by DiSAC and NABFAM
 - Collaborate to establish an official regulating body
 - Process of engagement with stakeholders
 - Process of development with SAQA to designate mediation as a profession

The way forward

- Benefits of formalisation:
 - Legal standing to regulate profession
 - Development of qualification requirements and framework
 - Greater recognition from Government
 - Access to financial resources
 - Address transformation issues
 - Build institutional capacity
 - Create awareness



Questions