

SOFT SKILLS OF MEDIATOR

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ABSTRACT

Mediation has been recognised as one of the alternative dispute resolutions in construction industry. By the insertion of mediation clause in the construction standard form of contract, it give the disputed parties choice in choosing the method to solve the disputes. Mediator plays a major role in the mediation, the existence of the mediator as third party to solve the disputes between parties and help the parties in findings the solution for their disputes. Mediator have to encourage the parties to make their own solution without pressure them to make decision or make them feel compelled. In order to help the parties solving the disputes, the mediator must have the skills to explore the ground of the disputes and make the parties feel comfortable to give the information to the mediator. Therefore, this research has been done to determine the soft skills that the Malaysian mediator should have and ranking them according to the importance. Through the interview done with the respondent that accredited mediator from the Kuala Lumpur Regional Center of Arbitration(KLRCA), the suggestion can be made is the soft skills that the mediators should have are communication skills, building rapport with parties, creativity and trustworthiness and the lease importance soft skills are authority, flexibility, constructiveness and patience. As the opinion research, the so it does'nt meant that the skills that not mentioned are not important. The good mediator have to master the process and the soft skills of mediation. The process and the skills is the essential element in the mediation and without the proper skills, the mediator may lead to failure of the mediation. The soft skills is some things that can be develop but to master the soft skills need a years of practice and experience handling the cases.

ABSTRAK

Pengantaraan telah dikenali sebagai salah satu daripada Alternatif Penyelesaian Pertikaian didalam industri pembinaan. Dengan adanya klausa Pengantaraan di dalam dokumen kontrak pembinaan, pihak yang berselisihan mempunyai variasi pilihan untuk menyelesaikan pertikaian mereka. Pengantara memainkan peranan penting di dalam Pengantaraan, kehadiran pengantara sebagai pihak ketiga untuk menyelesaikan pertikaian diantara dua pihak dan membantu mereka untuk mencari jalan penyelesaian perselisihan mereka. Pengantara perlulah menggalakkan pihak yang bertikaian membuat penyelesaian sendiri tanpa meletakkan tekanan atau paksaan. Dalam pada untuk membantu pihak bertikai menyelesaikan masalah mereka, pengantara haruslah mempunyai skil untuk mengenali asas kepada masalah tersebut dan dalam masa yang sama membuatkan pihak tersebut merasa selesa untuk berkongsi informasi bersama pengantara. Oleh yang demikian, kajian ini dilakukan untuk mengenal pasti skil dalaman yang perlu dipunyai oleh pengantara dan tahap kepentingannya. Melalui interview yang dilakukan ke atas responden yang merupakan Pengantara Bertauliah dari Kuala Lumpur Regional Center of Arbitration (KLRCA), cadangan yang dapat dilakukan ialah pengantara yang baik perlulah mempunyai skil seperti komunikasi, membina hubungan dengan pihak terlibat, membina kepercayaan dan kreatif. Manakala skil yang kurang memberikan impak ialah kesabaran, daya mencipta penyelesaian, fleksibel dan penguasaan. Kajian ini merupakan kajian pendapat jadi ia tidak membawa maksud bahawa skill yang tidak dinyatakan adalah tidak penting. Proses dan skil merupakan elemen penting didalam Pengantaraan dan tanpa skil yang tepat, pengantara akan terjerumus ke arah kegagalan dalam pengantaraan. Skil dalaman