



Guidance on Mediation

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Human Resources & Organisational Development

Guidance on Mediation and the Mediation Process

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Guidance - Mediation and the Mediation Process

1. Introduction

This document provides guidance on how to use mediation to resolve issues between two parties or more in the workplace.

First and foremost it is the responsibility of managers to seek to resolve day to day workplace differences and independent mediation could not possibly be used to resolve all disputes or problems.

Use of mediation is likely to be used in more complex cases of disagreement or for a breakdown of relationships in the workplace where the particular circumstances mean mediation is an appropriate option to seek a resolution.

2. What is Mediation?

Mediation is a process where a neutral person (the mediator) works with members of staff who have a disagreement to help them to find their own solution and reach an agreement that will sort out their problem or improve the situation. It is a voluntary and confidential process.

Mediation offers employees an alternative informal process to resolving perceived bullying and harassment issues rather than pursuing concerns\complaints through the Council's Grievance Policy and Procedure. It can be a more effective way to resolve such matters informally although it still may also be used at any stage of the Grievance Procedure.

If an employee agrees to take part in mediation, this does not prevent them from pursuing their bullying and harassment complaint through the formal Grievance Procedure in the event that mediation does not resolve the issue.

The purpose of workplace mediation is to try to resolve appropriate issues of bullying and harassment and any other forms of workplace disputes informally and at the lowest level in the organisation, without resorting to formal, time-consuming, expensive and potentially distressing and damaging processes. The Council's Grievance Policy and Procedure encourages staff to resolve disputes informally before resorting to the application of formal procedures.

However, mediation is unlikely to be appropriate where there is an allegation of very serious bullying or harassment.

3. Why Use Workplace Mediation?

Mediation is normally described as a positive process, as it focuses on the future, rather than trying to find blame for the past. The mediation process is confidential on all sides.

Workplace mediation is a voluntary process. If mediation is suggested by the employee's manager who is not party to the dispute or Human Resources or a

Dignity at Work Advisor, the decision to undertake mediation will rest with the individual raising the concerns and the alleged perpetrator following a discussion regarding the mediation process. Should either party choose not to take part in mediation they will not be disadvantaged in any way.

4. Why should an employee choose mediation?

Conflict with an employee's colleague(s) as a result of perceived issues of bullying and/or harassment can undermine the individual's effectiveness at work and lead to stress: mediation can help them resolve their issues\concerns so that they can get on with 'normal' life again and move forward.

When an employee is involved in a conflict situation, talking to the person they believe is bullying or harassing them can seem impossible: mediation can re-establish those channels of communication.

Any agreement is on terms agreed by the parties involved, not dictated by someone else; it leaves them in control of what is finally agreed.

5. Can the employee bring a representative to the mediation?

In most cases, mediation will be most effective if only the parties to the conflict are involved with the mediator. That is because it is most successful when those actually in the conflict work directly with the mediator to resolve it, particularly when the alleged victim and perpetrator need to work together in the future. An open and frank discussion of the issues, which is facilitated by the mediator, ensuring fairness and appropriate behaviour and creating a "safe" environment, can be the key to resolving the conflict.

However, there may be good reasons where either party may feel the need to bring a representative to the mediation and they should discuss this with the mediator when they first meet. It is important that all those involved in the mediation know in advance who will be attending and what their role will be.

6. What can an employee expect if they participate in Mediation?

Whilst there is no set format for workplace mediation the following elements are normally experienced by participants to the process:-

- the mediator(s) will hold separate meetings with the parties to introduce themselves, explain the process and key principles, to listen to their concerns and identify the core issues, to begin to explore possible outcomes and to explain the next steps.
- face-to-face mediation in a "joint meeting" with both parties present. During the joint meeting, each participant will have a chance to speak openly, without interruption, about areas of concern. They will be encouraged to

be open and honest, and express their feelings clearly to one another. This will help to identify areas of agreement and disagreement and move towards building a practical and workable agreement, focussing on future working relationships.

- Agreement on some/all of the areas of concern addressed during mediation. This can take the form of a verbal or written agreement which both parties have reached a resolution on.

7. Confidentiality

Unless otherwise agreed by the two parties, both the fact that mediation is taking place, and the contents of any discussion, are to be kept confidential to the parties involved and the mediator(s). The exception to this will only be if a party raises issues of harm to self or others, or issues of gross misconduct or both parties agree to disclose specified information to an identified person which is relevant to move concerns forward.

A record of the mediation process is not kept on personal files. Any notes taken by the mediator(s) will be destroyed once the mediation has been concluded.

A written agreement made during mediation will be kept only by the two parties involved and not shared with others unless agreed by them both. They are responsible for ensuring the agreement is implemented. The mediator(s) may provide general feedback to Human Resources to confirm that the mediation took place and that an outcome was achieved but will not share any detail about the matters discussed within the process or the content of the agreement if any is reached. The only exception to this position is as outlined in the first paragraph of section 7.

8. Next Steps?

If mediation is the agreed route to resolve disputes concerning bullying and/or harassment, Human Resources should be contacted and they will be able to provide further information including what options are available to access an appropriately independent and trained mediator.

Mediators will not be responsible to Human Resources or Managers and they will have had no previous involvement with the issues or either of the parties who have agreed to mediation.

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