

WORKPLACE MEDIATION SERVICE

THE MEDIATION PROCESS EXPLAINED

What is Workplace Mediation?

Workplace Mediation is a confidential and informal way to resolve disagreements or disputes between people who work together. The process is assisted by a trained mediator who acts as a facilitator. The process works by encouraging the parties to speak to each other and reach a mutually acceptable agreement that will sort out their problems. It gives the parties a chance to talk about the situation, express their concerns to each other and come up with some practical ideas about how things could change for the better. The dispute could be between two or more people.

Mediation is:

Voluntary – It cannot work unless all parties agree to mediation. It is therefore essential that the parties are not put under pressure to attend mediation or feel that it will count against them if they decide not to participate.

A means for reaching agreement – The parties will be asked to identify their issues and concerns and from this an agenda will be set to help them jointly work towards an acceptable agreement. The mediator will encourage open communication and will help the parties to generate options and ideas that will improve the situation. The aim of mediation is to achieve a win/win outcome with the parties taking responsibility for making changes and agreeing a more positive way of working for the future.

Confidential – The process is carried out on the basis of agreed confidentiality between the parties and the mediator. The exception to this would be if a party raised issues of harm to self or others or issues of serious misconduct. The content of mediation is not fed back to Human Resources staff or managers, nor is it recorded on the employee's personnel file. However, the parties may find it helpful to share some or all of details of their agreement with people outside of the process.

Quick - The aim of mediation is to resolve issues at the earliest opportunity. Mediation can be arranged in a few days and the process can usually be completed in one or two days.

What types of disputes can be resolved through Workplace Mediation?

Mediation can be an effective method of resolving all types of workplace disputes. These could include:

- Communication issues
- Personality clashes
- Unresolved or ongoing grievance issues

- Perceived discrimination, harassment or bullying
- Differences of working style or approach
- Inappropriate use of power, status or position

What is the mediator's role?

The mediator's role is to act as an independent and impartial facilitator. They will not take sides or judge what is right or wrong. They will coordinate the process by making sure that each party has an equal voice, is heard and is able to respond. They will obtain an agreement of willingness to undergo mediation from each party before the process begins and will also establish the ground rules and ensure that all parties comply with these.

The mediator will encourage the parties to discuss their issues of concern and help them look for realistic solutions. Where appropriate, the mediator will assist the parties to draw up a mutually acceptable agreement that can be signed by all parties.

The parties can talk to the mediator openly because he or she will not pass on anything said without the agreement of the person who said it.

How does mediation work?

Stage One: Separate meetings with the parties

The mediator will meet with the parties individually to:

- Explain the mediation process, including confidentiality, and the role of the mediator
- Explore the core issues and identify the ideal outcome for both parties

The mediator may need to meet with either of both parties on more than one occasion to clarify any further issues arising from Stage One.

Stage Two: Face-to-face mediation

The mediator will ensure that a suitable venue has been arranged where there will be no interruptions and confidentiality can be maintained. The mediator will:

Set the scene:

- Establish the ground rules for the meeting (e.g. the need to respect and listen to each other's views, confidentiality, etc)
- Provide uninterrupted time for each party to set out the issues as they see them
- Agree an agenda of issues to be explored and discussed further

Explore the issues:

- Explore the issues with both parties
- Encourage open communication
- Identify people's concerns about the issues
- Encourage a mutual understanding of the issues
- Encourage a change of focus from the past to the future

- Summarise areas of consensus and disagreement

Build an agreement

Mediation will work towards:

- Generating and assessing options
- Encouraging problem solving
- An acceptance or acknowledgement of conciliatory gestures
- Constructing a mutually acceptable agreement for a more positive way of working for the future and create fall back arrangements
- Identifying what happens next if no agreement can be reached

Closure and Follow-Up

- The session will conclude when both parties agree that they have dealt with the dispute and have reached a mutually acceptable agreement, with a clear understanding of what has been agreed
- If an agreement is reached, it will be written down in clear, unambiguous language and both parties will be asked to sign it
- Reach an agreement about who retains copies of the agreement (e.g. just the parties or do the parties agree to others, such as their manager, having a copy?)
- Reminder of the confidential nature of the process

How does mediation fit into formal policies and procedures?

Mediation can be an alternative to formal procedures or it may form part of an agreed action following formal procedures. For example, it can be particularly effective if instigated prior to a formal grievance being raised.

It must be noted that agreements reached through mediation are not legally binding (although it is hoped that the parties will treat the agreement as 'morally binding') and any information shared by the parties is not used in any subsequent formal procedures due to the confidential nature of mediation. Notes made by the mediator are not kept or used beyond the mediation process.

If mediation does not resolve the issues, staff can still choose to follow the formal procedures. If mediation takes place during any formal procedure, the procedure will usually be put 'on hold' pending the outcome of mediation.

Further information about South East Employers

South East Employers is one of the nine regional employers' organisations which represent the interests of local authorities and public sector bodies in England and Wales. South East Employers is independent and not-for-profit and our aim is to add value to our councils and communities through our wealth of local knowledge and professional expertise.

Our mediators have undertaken the Certificate in Workplace Mediation through ACAS (Advisory, Conciliation and Arbitration Service).