

Guide to Workplace and Employment Mediation

The background

The world of work is changing rapidly with the impact of economic uncertainty, advances in technology, globalisation, increased diversity and organisational restructures. All of these can contribute to conflict situations and there is clear evidence that conflict in the workplace is increasing significantly.

What is workplace and employment mediation?

Workplace mediation is used where there is an ongoing employment relationship to preserve. Employment mediation, on the other hand, refers to a situation where a claim has been issued or the employment has ended and the outcome is likely to be an exit agreement on agreed terms.

Mediation is a voluntary process where the parties can have complete confidence that whatever they say will remain confidential. It is also a process which is conducted on a “without prejudice” basis. This means that anything that is referred to during mediation cannot be referred to in any legal proceedings and the mediator cannot act as a witness in any formal or legal proceedings which may follow.

The mediator is entirely independent. It is not the mediator’s role to impose any solution or make a judgement on the issues; rather the mediator facilitates the parties to identify the issues, identify any common ground and consider solutions.

Mediation is future focused and empowers individuals to identify solutions that would not be possible in formal or legal processes. This allows greater freedom and flexibility to both clarify the real issues and explore creative solutions that would not be possible in a more formal process.

When to mediate?

Mediation can be used successfully in the following situations:

- At the beginning of grievance or disciplinary proceedings
- When it is clear that grievances or disciplinary matters cannot be resolved
- Personality clashes
- Conflict between employees and line managers
- During major change management processes
- Collective disputes

- Merger and acquisitions or outsourcings
- Boardroom disputes

Mediation may not be appropriate in some cases of very serious gross misconduct or when the employer wants to communicate a message. It cannot and should not be used where the parties do not willingly engage with the process.

The advantages

- A solution that really works
- Greater employee engagement
- Improved employee wellbeing
- Improved productivity and motivation
- Greater tolerance and understanding
- Cost effective
- Avoids destructive legal or formal processes
- Allows individuals to leave with dignity
- Avoids reputational damage

The process

1. Commissioning

Once the parties have agreed to mediation, the employer will commission a mediator. In order to do so contact us on 08000 489235 or info@resolution-at-work.co.uk.

2. The mediation itself

The mediation includes pre-mediation discussions with those concerned followed by a joint meeting.

a) Pre-mediation discussions

This is a private and confidential meeting during which the mediator will;

- Introduce themselves and explain their role as mediator and the principles of mediation.
- Ensure that both parties fully understand the process and agree to continue.
- Start to gain an understanding of the issues and explore options for resolution.

b) Joint meeting

The mediator will start by restating their role and the principles of mediation. Each individual will then talk about their concerns or issues without interruption and the mediator will summarise what has been said. The mediator will then facilitate further discussion to identify any

common ground, promote understanding of each other's perspectives and explore options, areas of compromise and possible solutions.

3. The mediation agreement

Once agreement has been reached the mediator may draft an agreement setting out the details so that each party fully understands the terms and signs up to this.

The mediator is only able to report to the commissioner what has been agreed between the parties. All other aspects of the mediation remain confidential between the mediator and the parties.

4. Follow up

In some cases there may be a follow up meeting with the parties within 30-60 days of the mediation. This will help to ensure that the parties are keeping to the agreement, allows the mediator to deal with any further issues and monitor the progress.

Conflict coaching

Where it is not possible to obtain the agreement of both parties to mediate, conflict coaching can be an alternative to support either one or both parties. It can also be used as additional support to prepare individuals for mediation or post the mediation to provide ongoing support.

Conflict coaching can be used to support individuals in:

- Improving their knowledge, skills and abilities to more effectively manage interpersonal disputes.
- To develop understanding of how responses to conflict and changes in attitude and behavior can impact.
- To prevent an unnecessary escalation of a conflict situation.
- To prepare for a challenging conversation or with another person or group.
- To develop stronger conflict management skills, for example in performance management and managing as a leader.
- To prepare for participation in mediation.
- To address matters that may arise post-mediation, such as lack of resilience, ongoing unresolved emotions and issues and/or relationship dynamics and so on.
- To apply the skills learned in conflict management and other related training.