

A Guide to
WORKPLACE MEDIATION



Understanding mediation in the workplace

What is mediation?	2
Why use workplace mediation?	2
When can workplace mediation be used?	3
How does mediation fit in with other Council processes?	3
Why should I choose mediation?	4

Understanding our workplace mediation scheme

Do I have to agree to mediation, if it suggested to me?	5
Do I need to speak to my manager if I have an issue or wish to request mediation?	5
How do I request mediation?	5
If I agree to mediation, what do I need to do before it begins?	6
Who will be the mediator?	6
Can I bring my representative to mediation?	7
Am I allowed time off to attend mediation meetings?	7

Workplace mediation in practice

What can I expect to happen in mediation?	8-9
What if I'm not ready to be in the same room as the person I am having the disagreement with?	9
What's my role in mediation?	9
What happens after the face-to-face meeting?	10
Can I be made to keep the agreement reached in mediation?	10
Will any information be disclosed to my manager?	11
Is everything discussed in mediation confidential?	11

What is mediation?

Mediation is an informal but structured process where a neutral person (*the mediator*) works with employees who have a disagreement or are in conflict to help them find a mutually acceptable solution that will sort out their problem or improve the situation. It is a voluntary and confidential process.

Why use workplace mediation?

Positive working relationships are proven to have a positive impact on employee wellbeing and performance. Managers have a responsibility to foster an environment that actively encourages positive working relationships and to encourage employees to resolve issues without formal procedures. However, if members of their team are in conflict with each other and they cannot help them resolve their issues, a trained mediator may be able to help.

The purpose of a workplace mediation scheme is to try to resolve workplace disputes informally, and at the lowest level within the Council, without resorting to formal, time-consuming, expensive and potentially distressing formal procedures.

Mediation focuses on the future rather than dwelling on the past and apportioning blame in disagreements. This makes it a valuable and positive process for helping employees move on from the conflict they are experiencing and can help rebuild relationships.

Workplace mediation is a voluntary process and is available to all employees of the Council. Where mediation is suggested as a means of resolving issues, the decision to undertake it will rest with the two or more individuals who are in conflict. Any individual who decides not to take part in mediation will not be disadvantaged should formal procedures then be required to resolve the issue.

When can workplace mediation be used?

Mediation can help to resolve most types of issues; it is especially suitable when the aim is to maintain the employment relationship. The types of issues suitable for workplace mediation could include those around work or management styles, working arrangements and environmental conditions, for instance:

- *Interpersonal conflict*
- *Perceived discrimination, harassment or bullying*
- *Inappropriate behaviour or language*
- *Change management*

Mediation is not appropriate in every situation; for example, where there is a disagreement about whether an employee is entitled to a particular benefit under the terms and condition of employment or where there is an allegation of very serious bullying or harassment or misconduct.

How does mediation fit in with other Council processes?

Mediation offers an alternative to pursuing complaints and disagreements between colleagues through the Council's formal Grievance, Dignity at Work and Disciplinary procedures. It can be a more effective way to resolve disagreements and can be used at any stage of these procedures, although mediation tends to be most effective when used as early as possible in the conflict.

If you agree to take part in mediation, this does not prevent you from pursuing your grievance or complaint through a formal procedure in the event that mediation does not resolve the issue.

Why should I choose mediation?

- *Conflict with your colleagues can undermine your effectiveness at work and lead to stress: mediation can help you resolve your disagreement so you can get on with 'normal' life again.*
- *When you are involved in a conflict, talking to the person you are in disagreement with can seem impossible: mediation can re-establish those channels of communication.*
- *Any agreement is on terms agreed by you, not dictated by someone else; it leaves you in control of what is finally agreed.*

Do I have to agree to mediation, if it suggested to me?

Mediation is entirely voluntary and will only work if all parties agree to actively participate in the process. Although it is an informal alternative to any formal procedures, you retain the right to raise a grievance without recourse to mediation if you choose to do so.

Mediation is a “without prejudice” process which means that anything discussed within the mediation session cannot be used to support other processes such as Dignity at Work investigations. The mediation process is confidential and no information will be shared unless both parties expressly request that information is shared with a third party (e.g. their Manager, Trade Union Representative, or HR).

Do I need to speak to my manager if I have an issue or wish to request mediation?

It is always good practice to speak to your manager in the first instance if you have a workplace issue. However, if you feel you cannot speak to your manager for any reason, this will not prevent you from requesting mediation.

How do I request mediation?

Contact the workplace mediation service on **01443 424108** or email **rebecca.gillgrass@rctcbc.gov.uk**. A senior mediator will discuss the issue with you in the first instance to find out whether mediation might be suitable. If it's agreed that mediation may be the way forward, the senior mediator will arrange for you and the other party/parties to be contacted by one of the Council's trained mediators. If mediation isn't considered suitable or the other party is unwilling to participate, the senior mediator will outline other possible alternatives for you to explore.

If I agree to mediation, what do I need to do before it begins?

In preparing for any mediation meeting it may be helpful to think about how you can clearly describe the situation/issue that has brought you to mediation in the first place. In this way the other party/parties involved can understand your view. What's important to you? In your view, what do you believe is the best possible outcome?

Who will be the mediator?

If you agree to take part in mediation, the senior mediator will nominate a suitable, fully trained workplace mediator. This individual will be independent of your HR Officer and the Service Area in which you work and they will have had no previous involvement with the issues or the parties who have agreed to mediation. In certain circumstances, where it is deemed appropriate, or independence cannot be guaranteed, external mediators may be used.

Can I bring my representative to mediation?

Mediation is most successful when those actually in conflict work directly with the mediator to resolve it. An open and frank discussion of the issues, which is facilitated by the mediator, ensuring fairness and appropriate behaviours and creating a "safe" environment, can be the key to resolving conflict. Consequently, in most cases, mediation will be most effective if only the parties to the disagreement are involved with the mediator. There may, however, be good reasons why you feel you need to bring a representative to the mediation and you should discuss this with the mediator when you first meet. It is important that all those involved in the mediation know in advance who will be attending the mediation session and what their role will be.

Am I allowed time off to attend mediation meetings?

Mediation takes place all on one day. You will be allowed time out of your workplace to attend mediation.

What can I expect to happen in mediation?

The mediation process will be flexible to the circumstances of each disagreement or conflict. No two mediation sessions will be the same. Each mediation process will, however, contain the following key elements:

- Once everyone concerned has agreed to take part in the process, an initial telephone call will take place between the mediator and each party. The purpose of this will be to answer any questions that the individuals may have about mediation, ensure they understand the process of mediation and to arrange a suitable date for all parties to meet. Following this all individuals involved in the disagreement will be asked to sign the mediation confidentiality agreement and return this to the mediator.
- On the day of mediation, the mediator will speak to each party separately to find out more about the situation to be resolved and each party's view of the disagreement so they get a full picture of the issues from all perspectives. The mediator will then bring the parties together. In these meetings, the mediator will support all parties to identify the key issues they wish to discuss and to assist them to decide how they would like to communicate this to the other party.
- A joint meeting involving all parties and the mediator will then be held. The mediator will work impartially with each party to ensure everyone has an equal opportunity to express their feelings and concerns around the issues in point. Each party will have the chance to speak openly and without interruption about their areas of concern. All parties will be encouraged to be open and honest, and express their feelings clearly to one another. This will help the mediator to identify areas of agreement and disagreement and move towards building a practical and workable agreement, focussing on future working relationships.

- At the end of the mediation, if a mutually acceptable agreement has been reached, a mediation agreement will be created and signed by all parties involved as a means of formalising the agreement and signalling a commitment by all to adhere to the agreement on their return to the workplace.

What if I'm not ready to be in the same room as the person I am having the disagreement with?

You mediator will not make you meet with the other party if you do not agree. However, for mediation to stand a chance of success, all parties will have to meet around the table.

What's my role in mediation?

Mediation is only as successful as you make it. Your responsibilities are to:

- Decide what the issues are for you in terms of the dispute
- Come with an open mind and a willingness to take part in the process
- Listen respectfully to others' points of view
- Look for solutions
- Work with the other party/parties to create mutually agreeable solutions

What happens after the face-to-face meeting?

This will depend to a large extent, on what was agreed in the mediation meeting itself. It is hoped that at the end of the meeting all parties take forward the actions they agreed in the mediation agreement.

Can I be made to keep the agreement reached in mediation?

Colleagues who take part in mediation do so on the understanding that they all intend to keep to any agreement reached otherwise there is little point in going ahead. If and when agreement is achieved it is not legally binding, however, given that all parties participate in mediation in “good faith”, it is hoped that individuals will follow the agreement.

Will any information be disclosed to my manager?

Any notes taken by the mediator or parties are destroyed at the end of the mediation meetings. Any feedback about the outcome to the relevant manager(s) will be a matter for the parties involved to decide and if it is decided to feedback, the level of detail must also be agreed by all parties. It is also totally acceptable for all parties involved in the dispute to agree not to feedback on any aspect of the mediation or agreement. A record of the mediation process is not kept on personal files.

Is everything discussed in mediation confidential?

Yes. What is discussed in mediation is done so in total confidence and will not be shared with others. The only one exception to this, is if one of the parties reveals/discusses something that is criminal or likely to cause themselves, someone else or the organisation serious harm (this is known as ‘duty of care’). In the unlikely event that this should happen, the meeting will be stopped immediately and the mediator will alert an appropriate Council Officer.

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