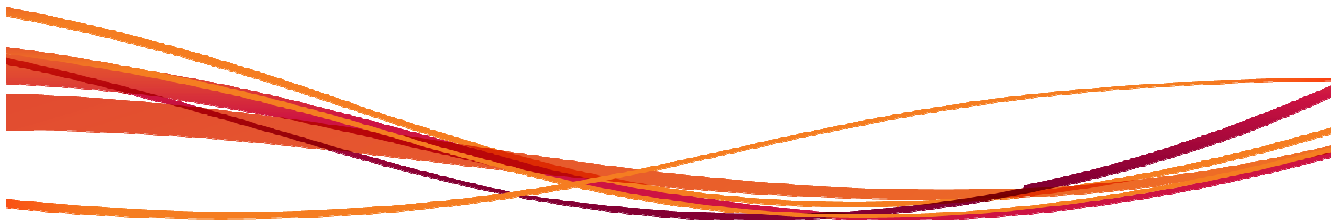


HR Rely Guidance

Guide to mediation

April 2014



Guide to mediation

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What is mediation?

It is a process where a specially trained, neutral third party helps disputing parties to find a way forward out of a current situation that is becoming intolerable and unsustainable. Examples of situations that may benefit from mediation are:

- Individual grievances against managers/colleagues
- Clashes of personality
- Dysfunctional working relationships
- Pre-termination discussions/negotiations for settlement

What are the principles of mediation?

Mediation is voluntary and no party can be compelled to participate or required to continue with the process once it has started.

Mediation is confidential which ensures that the parties can talk openly to the mediator without fearing the other party or anyone outside the mediation will find out what has been discussed. Information is only shared where permission has been given to do so.

Mediation is non-binding in that the parties are not held to their words. However an agreement is usually put in place at the end of the mediation process which is made in good faith by the parties. The agreement will only contain that which the parties have explicitly agreed to.

Mediation which is carried out in the context of a pre-termination discussion/negotiation may result in a draft settlement agreement being drawn up for consideration.

Mediation is without prejudice in that, if the matter escalates to a different arena, anything which has been discussed in the mediation cannot be used or quoted.

Why should I consider using mediation?

There are a number of advantages in using mediation in preference to a formal grievance procedure or litigation which include:

- speedier dispute resolution to deal with conflict quickly enabling normal working to resume without lengthy procedural disputes
- reducing the impact of conflict on health and well being as conflict can have a destructive effect on people's lives causing both physical and emotional problems
- improving communication to enable parties to work through misunderstandings and open up communication where this has been difficult to achieve due to heightened emotions
- flexibility as there are no rigid rules or procedures to follow so the mediator can adapt the process to suit the circumstances of the dispute
- helping parties to view their case objectively so they can achieve a realistic outcome
- helping parties to feel in control of the solution to their dispute.

How does mediation work?

The following steps will normally be followed (assuming all parties have agreed in principle to participating in the mediation process):

1. the mediator will be briefed by the organisation asking for the mediation to gain a basic outline of the background to the situation
2. the mediator will contact each party separately to introduce themselves and to explain the process in more detail and to ask them to sign an agreement to mediate
3. the mediator will meet with each party separately to explore their view of the dispute
4. the mediator will facilitate a joint meeting with both parties to allow them to exchange views with the aim of reaching agreement on a way forward to resolve the dispute
5. the mediator will capture the agreement reached in writing for each party to sign OR
6. the mediator will draft a settlement agreement for the parties sign after legal advice has been taken.

Note: the mediator will need to liaise with the organisation over the administrative arrangements for the mediation but will not report back on the mediation content or outcome without express permission from the parties.

April 2014

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