

# Workplace Mediation?

What you need to know



Workplace mediation has significant benefits for individuals, teams, managers, leaders and the wider organisation. Research from the CIPD shows that individuals are likely to wrestle with a dispute or difficult relationship at work for at least six months before taking any action (such as speaking to HR).

Experiences of conflict can lead to low morale, sickness, stress, absenteeism and decline in productivity. Not to mention damage to your employer brand. Management time spent on disputes can escalate quickly and it can easily start to affect wider team members. It can lead to staff turnover, and ultimately reputational damage.

ACAS estimates that formal grievances cost around £9,000. HR professionals conducting grievances will appreciate how these costs accumulate (loss of productivity, management time, sickness absence, legal costs etc), before you reach any potential settlement! Mediation can cost a fraction of this!

Mediation can be an extremely quick and cost-effective way to head the negative aspects of conflict off at the pass.

## What is Workplace Mediation?

- It is an informal voluntary process where the parties are assisted by a mediator to facilitate the resolution of a workplace issue. Although considered informal, it still has a structured approach.
- Helps parties involved in conflict to hold open conversations that would normally be too difficult to have.
- Helps parties to understand and empathise with each other's emotions and situations.
- Explores all parties' issues and concerns and uses joint problem-solving to find a solution that each side feels is fair.

- Encourages communication and establishes workable relationships.
- Helps participants develop the skills to resolve workplace difficulties for themselves in future.
- Identifies and acknowledges the parties needs and interests, whether substantive, procedural or psychological.
- Brings clarity to the situation and attempts to improve the workplace dispute by working with the parties to reach an outcome to which each of them can agree.
- A grievance process would be temporarily suspended whilst the mediator conducts a series of protected 'without prejudice' conversations with the parties.
- Confidentiality is a key element of workplace mediation. Like most types of mediation what happens in the mediation process remains confidential unless the parties agree it can be shared. While nothing is written on the employee record, it may be appropriate for HR and/or line/senior management to be aware.

## What can Workplace Mediation be used for?

- Most mediation takes place in the context of a workplace dispute between two or more parties, for example:-
  - A breakdown in communication
  - Personality clash
  - Relationship issues
  - Unclear role boundaries
  - Different working styles
  - Bullying and Harassment
- Research indicates that mediation has a 93% success rate. However, if it doesn't work then any grievance process is resumed (the discussions in mediation remain confidential and without prejudice, i.e., what is discussed in the mediation can't be used in the grievance process or Tribunal by either party).
- Mediation can be used to define which issues are in dispute and which are not.
- Mediation can directly and indirectly educate and train the parties in a method and style of decision making which can be used for the future. This role can be very important in an environment where conflict is common, and the parties dispute resolution skills are limited.

## Choosing a Mediator

- Mediation skills are extremely important, choose a mediator with a recognised qualification, e.g., CMC (Civil Mediation Council).
- Check the fee structure carefully and look whether it includes preparation time or additional time if the mediation runs over time on the day.
- Consider what additional experience can the mediator bring to the mediation.
- Choose a mediator that has the right chemistry with the parties and can build rapport quickly.

## The Mediator will .....

- Give the parties hope!
- Resist the temptation to impose a solution, which in practice could alienate one or both parties
- Will build rapport with the parties which in turn leads to trust
- Give each party the opportunity to be heard and to feel that they have 'had their say'
- Encourage the parties to look forward, not in the rear-view mirror
- Look for ways to 'add value'
- Be skilled in 'reality and perception' testing techniques with the parties to assess their position and interests

## What are the Pros and Cons of Workplace Mediation?

### Pros

- There is nothing to lose by trying mediation as the whole process is conducted on an entirely 'Without Prejudice' and confidential basis. If an agreement is not reached employment rights are not compromised for any party (including the employer!!)
- Mediation is normally organised very quickly; most issues are resolved inside a day or two.
- Parties can speak openly and freely in a confidential setting to an independent and neutral mediator. Just being able to do this provides immense relief to the parties and can have a positive impact on their wellbeing in what has likely been a stressful situation.
- Mediation is more informal and less adversarial than other dispute processes. It is a less stressful process than a court or tribunal process.
- Mediation can deal with the situation where neither party wants to make the first move for fear of appearing to be weak or to blame.
- Mediation involves simple procedures and provides opportunity for creative agreement which a grievance, tribunal or court could not impose.
- Mediation offers potential time and financial savings and free's up management to focus on business needs and development .
- Reduces anxiety and other negative effects of the situation so that informed and rational conversations and decisions can be made.
- Encourages the parties to take responsibility for the situation and the consequences of their decisions.
- Provides parties with a model, and some skills and techniques, for future decision making without third party assistance.
- No precedent is set by an agreement reached in mediation.
- Mediation improves communication between the parties and may encourage them to adopt a more co-operative approach in their future dealings.
- Mediation can help to drive a conflict resolution culture within your business.

### Cons

- The parties may not agree to participate.
- It is another layer of cost.

### What are the other options?

- Ignore it.....?!
- Grievance investigation and hearing.
- Potential disciplinary investigation and hearing.
- ACAS conciliation.
- Employment Tribunal.

### The Workplace Mediation Process

A typical mediation process could entail:

#### Pre-Mediation Contact (usually by telephone between mediator and individual parties)

- To agree the terms of the mediation and sign a 'mediation agreement'.
- To explain the mediation process and put the parties at ease.
- To build rapport with the parties in advance of the mediation.



## Private and Confidential Meetings between the mediator and each individual party

- The mediation will be held in an agreed neutral location.
- The mediator will explore each party's position and interests to ensure it is understood.
- This will help the parties understand and gain perspective of each other's position and interests.
- Help the parties to reframe and be future focused towards an agreed solution and relationship.
- Coach and support the parties towards a joint mediation meeting.

## Joint Mediation Meeting

- The mediator controls a joint meeting of the parties and reminds the parties of the 'ground rules' for mediation (e.g., voluntary, confidential, 'without prejudice' and mutual respect). This normally happens on the same day or very quickly after the private individual meetings with the parties.
- Mediator will remind parties that any notes made by them (and the mediator) will be destroyed at the end of the mediation.
- Each party has regular opportunity to speak with guidance and support from the mediator which hopefully results in a 'flowing discussion' between the parties.
- The mediator will guide the parties through solutions or actions they have identified towards a written 'Mediation Action Plan' that both parties will sign.
- Where achievable the mediator will draft the 'Mediation Action Plan' and provide it to the parties for approval and signature.

## Post Mediation

- Engagement and implementation of the action plan is key. In signing the action plan the parties give their commitment.
- The mediator will make recommendations to the employer for follow up support to the parties (i.e., management support or coaching).
- The mediator will contact the employer to 'check in' and get an update as to the current position.
- If required (though not likely in most cases) can revisit a mediation if the agreement goes 'off track'.

## What next?

Do you have conflict or workplace concerns within your business that are dominating your time or keeping you awake at night? Give me a call and have a no obligation chat and see if I can help you on 07375051607 or drop me an email [nicola@platinumpeople.uk](mailto:nicola@platinumpeople.uk). Alternatively, pop onto my website and book a free chat through my online diary <https://platinumpeople.uk>.

