

Workplace mediation - a beginner's guide (for the People Bulletin)

Everyone's in favour of mediation these days: successive governments, the CIPD, ACAS. The case for using it to resolve workplace conflict is unanswerable, and has been made well elsewhere (notably in several reports by the CIPD^{1, 2, 3}) so I will confine myself to a ten word summary: mediation is quicker, cheaper and more effective than the alternatives. Surveys show that roughly half of organisations have used workplace mediation to date, so if yours is one of the many which have not yet tried it, how and where do you start, and what should you expect it to achieve?

When to use it

It's important to choose the right tool for the job, and it would be wrong to think of mediation as an all-purpose cure for every kind of conflict. Where there are serious breaches of discipline or allegations of illegality, there may be no alternative to using traditional formal or legal procedures. Collective bargaining still has its place for negotiating pay and conditions of work. But in a wide range of situations where individuals are failing to work well together, mediation comes into its own. It is widely accepted that mediation is well suited for:

- Cases of relationship breakdown, with mutual recriminations and complaints of 'personality clash';
- Bullying and harassment, particularly where there are complaints and counter-complaints (but not in the most serious cases, where it's clear that formal disciplinary procedures are appropriate);
- Arguments about discrimination or perceived discrimination, on grounds of sex or race or any other characteristic.
- Arguments about unreasonable management / poor performance.

Mediation can be used at any level from the boardroom to the shop floor, and between colleagues at a similar level or between managers and those they manage.

Getting the parties to try it

Mediation is a voluntary process: it cannot happen without the willing agreement of both the parties. You might need to persuade one or both of them to try it. This should not be too hard, if you remind them of the alternatives. It offers them more hope than continuing to live with their conflict, and, compared to formal procedures, it is quicker, less stressful and does not lead to any judgements or sanctions imposed on them from above. If, in the end, mediation fails to produce an agreement, the parties are no worse off because formal procedures are still open to them.

For many people mediation is an attractive option because it treats them as adults, responsible for their own behaviour and for the outcomes of the process, with the help of a trained, impartial, experienced person to manage the encounter and keep it safe. If you have difficulty persuading somebody to try it, the person you are planning to use as the mediator might be able to help, by providing something for the parties to read about the process or by discussing it with them directly.

Who will mediate?

Will you train a mediator, or a team of mediators within your workplace, or will you bring in an external, independent mediator from one of the many companies which now offer this service? Organisations which use mediation are divided half and half between these two approaches.

Many larger organisations are training their own internal mediators, typically members of the HR team. The benefits include:

- The mediators are always available.
- Their time might be less expensive to the organisation than an outsider's.
- They know the organisation well, so might understand the issues in a conflict faster.

On the other hand, there can be advantages in using external mediators, so long as you find the right one:

- You avoid the cost of training your own.
- A smaller organisation might (hopefully) not have enough disputes to justify training a mediator, and for a mediator to gain adequate experience.
- The parties might have more faith in the impartiality of an outsider, and in the confidentiality of the process.
- The mediator's lack of familiarity with the organisation could be an advantage, giving him or her a fresher insight into the issues.

In any case, if you have an urgent need, and nobody suitably trained in house, you will have to go outside. Growing numbers of businesses and individuals are offering workplace mediation services, but the market is not regulated and there is no single authority to approve competent mediators.

- Ask whether the mediator has trained and qualified in workplace mediation, on a recognised course such as those validated by the Open College Network.
- Ask if they comply with the European Code of Conduct for Mediators, or a similar code.
- Many providers are registered with the Civil Mediation Council and listed at <http://www.cmcregistered.org> and this site may be a good place to start looking.

Larger providers may have many mediators on their books: you should meet or at least talk with the individual mediator before going ahead. Use your judgement: is this someone who will establish a rapport with both the parties, while remaining impartial between them? Without that rapport, mediation cannot work.

The outcome

For all its transformative power, mediation is not magic. It will not instantly sweep away months or years of bitterness and hostility, and turn sworn enemies into best friends. So what does it mean when, time and again, reports and mediation providers claim that it is successful in something like 90% of cases? A successful mediation is generally defined as one which ends with agreements between the disputing parties to change their behaviour. It would not be realistic to expect such a speedy process to dig very deeply into the underlying feelings and attitudes of the parties. But if they can change their behaviour, and the changes stick, it is safe to expect deeper improvements in their working relationship over time.

[1] Conflict Management, CIPD, March 2011

[2] Workplace Mediation - How Employers do it, CIPD, July 2008

[3] Mediation - An Employer's Guide, CIPD and ACAS, September 2008

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