

Personnel Today

Reasons why mediation could fail

By **Anna Shields** on 13 May 2013 in **Employee relations, Mediation, Opinion**



Unfortunately, there is no magic formula to guarantee successful resolution of workplace conflict through mediation or any other conflict management tool. Anna Shields, director at [Consensio](#), sets out some realistic expectations for mediation users and sponsors by highlighting the common reasons why mediation might not work.

To begin, we need to clarify what we mean by “success” in mediation. According to the facilitative mediation model practiced by most workplace mediation providers, success is defined by the parties involved themselves. They need to feel something has shifted. They need to have found a way to make sense of their conflict and move on. Having a solution imposed from the outside or reluctantly signing a written agreement may look like closure, but can turn out to be a house of cards waiting to topple at the slightest disturbance. In other words, success requires some change in the mentality of both parties – a greater acceptance of the situation or understanding of the other party.

Reasons for failure

With this definition in mind, we can identify three main reasons why mediation fails.

The first cause of failure can occur when parties lack the necessary commitment to attend and engage in mediation. Everyone needs to enter willingly into the process and they need to be prepared to take responsibility for finding a way forward. It is said that in medicine, in order to be healed, the patient has to want to recover. In mediation, this holds equally true. No conflict can be successfully addressed unless the parties involved are themselves open to resolution and willing to work for it. If they enter the process passively, simply waiting for the mediator to “fix” the problem for them, success as defined above is a highly unlikely prospect.

To maximise the chances of party commitment, it is preferable to mediate as early as possible. The longer the conflict has been left unattended, the greater the likelihood that the parties have become so entrenched and so despairing of their situation that they are unable to believe in the possibility of resolution.

The second cause of failure happens when the parties do not feel as if the mediator is treating them impartially. If they feel the mediator is favouring one side over the other, mediation can simply fan the flames of conflict. The reason mediation works is that it offers everyone the opportunity to focus on understanding the situation better, rather than determining who is right and wrong.

The most effective and long-term resolutions are born out of this increased understanding, not out of considerations of right and wrong. Of course, it is difficult for a mediator not to betray any personal opinion as to right or wrong – but as any trained and experienced mediator knows, it is their role to act impartially in all circumstances.

Finally, mediation can fail if the parties involved do not trust that confidentiality will be honoured. Mediation is a strictly confidential process, designed to encourage parties to open up to one another and thus reach a deeper level of mutual understanding. Mediation typically involves discussing sensitive issues regarding past events, current feelings and hopes for the future.

If either party fears that what they say might be used outside the mediation context, either by the other party or the mediator, the conversation might never reach the depth required to build mutual understanding and mediation will fail. To help allay these fears, the parties and mediators are often asked to sign a confidentiality agreement at the beginning of the process. The confidentiality of mediation has to be honoured by the mediator and the parties involved as well as the organisation that referred the case for mediation.

To recap, the three main reasons why mediation might fail are when the parties are

not fully committed, when they do not believe in the impartiality of the mediator or when they do not trust the confidentiality of the process. On the positive side, if these three issues are rigorously communicated to all stakeholders before the process begins, mediation stands a strong chance of success.