

Mediation: Part One - When to use it and why



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Mediation is increasingly gaining prominence as an effective means of resolving workplace disputes.

Yet for many organisations, it is still a relatively untested approach compared to more formal processes such as disciplinary and grievance procedures.

In the first of a four part series on the subject, we provide guidance on how to ensure that a case is suitable for mediation and explore the most common questions that arise when considering whether it is suitable as a dispute resolution option.

1. What is mediation?

In short, mediation comprises a conversation, facilitated by an impartial mediator, between two or more people who are in conflict. The conversation is confidential in order to enable open and honest dialogue.

The various parties determine the outcome of the conversation themselves and may or may not want it recorded in a written agreement. Importantly though, mediation is a voluntary process, which means that participants cannot be forced to attend.

In this sense, the responsibility for deciding whether a given case is suitable for mediation lies with the parties concerned. But HR can play an important role in helping them to evaluate whether such a course of action is appropriate for them.

2. Why choose mediation over more formal procedures?

In comparison to more formal processes such as disciplinary procedures, mediation brings individuals together with the aim of having an open and honest conversation with each other. This face-to-face dialogue enables each person to see the situation from the other's perspective.

Although participants generally speak 'factually' about what has happened to them, mediators understand that conflict and subsequent relationship breakdowns are often due to differing perceptions and misunderstandings rather than facts.

But mediation, unlike more formal processes, does not look for a victim and a perpetrator. Instead the focus is on allowing both parties to understand each other better in order to move on from the conflict towards a healthier and more constructive working relationship.

Being a flexible process, however, mediation can be used instead, alongside or following more formal procedures, although experience shows that it is most effective when used at the earliest stages of a conflict before individuals' positions become too entrenched.

3. What kinds of cases are suitable for mediation?

Mediation can be used to resolve a surprisingly wide range of workplace issues. These include relationship breakdowns; personality clashes; communication problems; sickness absence due to work-related stress; bullying allegations and harassment and discrimination.

The common thread running through these issues is that they are generally based on people's differing perceptions, experiences and expectations. This means that allowing someone to talk about the impact that their colleague's behaviour has had on them and to hear how and why they acted in a particular way helps each party to understand one another better.

Such communication can, in turn, contribute to creating a more constructive, collaborative relationship.

4. Will mediation resolve all types of conflicts?

Mediation may seem like a riskier option than instituting more formal processes because the idea of two conflicting parties coming together in a room and being given the space to talk freely about their feelings may seem alarming.

But the fact that they have willingly chosen to engage in the process usually suggests that their intention is positive. Moreover, venting emotions is often an essential stage in enabling everyone concerned to let go of the past and move on.

Having a solution imposed on people via a more formal grievance or disciplinary procedure may seem like a resolution on the face of it. But, for many, the issues remain festering below the surface until they have had a chance to let the other person know how they really feel or can ask them why they did what they did.

A trained mediator knows how to support both parties as they express their honest feelings towards one another, which is one of the unique advantages of the approach. Even if a conversation gets heated, as long as the parties choose to continue, the process is serving its purpose.

5. What if there is an extreme power imbalance between the parties concerned?

It is all too easy to assume that an individual of lower rank has less power but, in a mediation situation, everyone's view point is valid. The mediator will not pander to power imbalances based on any participant's position or behaviour.

More often than not, both parties perceive themselves to be a victim in some way anyway. A good mediator will, therefore, treat everybody with impartiality and as equals, regardless of their status.

6. What if there are more than two parties involved in the conflict?

The process of mediation is flexible and can be adapted to handle any number of people. This is often referred to as multi-party or team mediation. As in a two-

party mediation, the mediator will typically meet each individual separately before facilitating a joint meeting between all concerned.

If the number of participants is high, it will inevitably be a lengthier process. But it is time well spent when compared with the potential months of bickering, stress and reduced productivity that can result when conflict is not appropriately addressed.

Although a team mediation is often a more challenging experience than a two party one given the complexity of having multiple viewpoints being expressed together, it can be a golden opportunity. Teams frequently come out of such a scenario with a far greater understanding of one another than they did before the conflict began.

In conclusion, mediation is appropriate whenever all parties in a dispute are willing to enter into a conversation with each another, supported by a trained, impartial mediator. While the approach can be used in a number of scenarios, it is the warring parties themselves who are best placed to decide whether they are willing and able to get involved.

In the next article, we will evaluate how to choose the most appropriate mediation provider and look at what questions you need to ask in order to have confidence in them.

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