

Mediation: Part Two - How to find the right provider



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The mediation industry has no single regulatory body.

The [Civil Mediation Council](#) runs a workplace mediation provider registration scheme, which provides a register of mediation suppliers.

Although this is a positive step forward, as yet there is no single code of good practice for workplace mediators and the scheme relies on self-certification. As a result, after having decided to engage the services of a mediation specialist, how do HR directors set about choosing the right provider to partner with?

How can you be sure that you have selected the best mediator for a given case?
What are the key differentiators between available suppliers and what questions do you need to ask in order to give the approach the best chance of success?

Here are some questions to ask yourself:

What type of mediator am I looking for?

Mediation is a generic concept that is frequently used to describe an independent third party (the mediator), who helps parties in dispute to come to a mutually acceptable agreement.

In an organisational setting, however, it is important to distinguish between employment mediation and workplace mediation. An employment mediator is usually brought in to handle the ending of a contractual relationship between an employee and employer.

In contrast, workplace mediation tends to refer to an ongoing working relationship between two or more members of staff who are in dispute. These cases often include relationship breakdowns; personality clashes; communication problems; sickness absence due to work-related stress; allegations of bullying and harassment and discrimination.

What style of mediation am I seeking?

Different providers practise different styles of mediation. The most common distinction is between evaluative mediation and facilitative mediation. In evaluative mediation, the mediator plays a much more directive role in structuring the conversation and steering participants towards a certain outcome.

In facilitative mediation, on the other hand, the mediator does not make judgements and does not offer advice. Instead they help the different parties to communicate directly with one another and agree a way forward without the need for external influences or input – an approach that is common in workplace mediation.

In choosing a provider, therefore, you will need to consider which approach best matches the corporate values and management style of your organisation as well as the needs of the particular case.

The choice of mediation style can, in fact, be used to reinforce or influence your organisational culture. By committing to facilitative mediation, for instance, you can actively support an organisational commitment to employee empowerment, devolved decision-making and the open exchange of views and feelings.

What experience does the mediator have?

Whether you are engaged in a long-term strategic partnership with a mediation provider or are using them on an ad hoc basis, you will need to be comfortable with their suitability for any given case.

As a result, it is important to consider the following questions:

- Do the mediators have appropriate training, accreditation and qualifications?
- Do they work to a recognised code of practice such as the European Code of Conduct for Mediators?
- What is their case experience and how regularly do they conduct mediations?

A mediator is commonly considered experienced if they have completed more than 50 cases on a diverse range of issues of varying levels of complexity. You may prefer them to have specialist expertise in your industry or in the area of the particular dispute you are currently dealing with.

Technically, such specialist knowledge is only really necessary in the case of evaluative mediation, when the mediator is authorised to influence the outcome. In the case of facilitative mediation, their role is not to make judgements so specialist expertise is not required and may even be a hindrance.

What relationship do I want with a mediation provider?

It is also necessary to consider what kind of relationship you wish to establish with your mediation provider. Do you need a provider to work for you on an ad hoc basis? Or are you looking for a strategic partner to help you manage your overall approach to organisational conflict?

Different mediation providers can offer varying levels of support and specialism. You will need to consider whether you are currently, or in the future, likely to need support in any of the following areas:

- Training and developing in-house mediators
- Setting up and administering an internal mediation scheme
- Keeping abreast of relevant regulatory developments
- Measuring the cost of organisational conflict over time and so forth.

For additional services of this type, you would do best to partner with an organisation that has an acknowledged specialism and expertise in the field. You can get a sense of this from their market reputation as well as their level of industry involvement.

Ask yourself whether they demonstrate thought-leadership by having had articles and/or research published, for example. Find out what types of clients they work with. Get references so that you can speak to someone who has worked with them and can give you an honest and impartial appraisal.

What should I do next?

Having identified a potential provider, either yourself or someone appropriate from your organisation should attend a meeting with them or take part in one of their mediation seminars or training courses. Such activity is especially important if you are seeking a long-term partnership.

Meeting the supplier face-to-face will also give you the clearest insight into their mediation style and approach. It is also the best way to ensure you fully understand their role and know what to expect from mediation.

For example, attending a training class will help you see the importance of mediator confidentiality – such professionals never pass on information about what was discussed during a mediation session to HR or any other third party without the explicit consent of all parties involved in the dispute.

This confidentiality makes it all the more important to choose the right mediation provider. Since you cannot observe them in real life cases, you need to be able to trust in their integrity and skill.

In the next article, we will review what HR can do to help participants prepare for the daunting prospect of mediation.

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