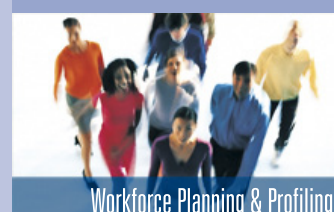


HR & OD POLICIES

HUMAN RESOURCES AND ORGANISATIONAL DEVELOPMENT

Mediation Guidance



Aberdeenshire
COUNCIL



www.aberdeenshire.gov.uk

1. INTRODUCTION

This document provides guidance on mediation in line with the principles of the Council's approved Mediation Policy.

These guidelines should be read in conjunction with the Council's Mediation Policy and have been prepared to assist all parties to resolve conflicts at an early stage.

Anyone considering mediation should contact the Mediation and Employee Relations team in HR for advice and guidance.

Participation in mediation cannot be enforced or insisted upon by either party to a dispute, or by the Authority.

The Council may propose mediation if appropriate however mediation does not preclude any other form of dispute resolution taking place if it is not successful.

2. WHAT IS MEDIATION?

Mediation is an informal and flexible approach to resolve conflicts. It gives an opportunity to discuss the issues with an impartial third party (the mediator) and it is voluntary and confidential. It is not a soft option or a compromise by any one party. It involves total commitment by those involved, difficult questions being asked and aired and a lot of hard thinking on positive options.

The essentials of mediation are:-

- Its private and totally confidential nature
- The voluntary nature of the assisted negotiation
- Informality
- Flexibility
- The chance it gives for everyone to consider their future as well as what happened in the past

- The opportunity to be creative in finding solutions, none of which are binding until agreement is reached .

It is an opportunity for informal resolution, saving on time and enables settlement to be achieved rather than compromise.



It has been shown that early intervention can reduce the negative impact on the wellbeing of employees.

3. CONFIDENTIALITY

The process will be confidential - nothing said in mediation can be repeated outwith the process, unless this is specifically agreed by everyone involved. Any breach of confidentiality may jeopardise the mediation process and will be viewed seriously.

However, there may be instances when the nature of the information disclosed means there is a statutory requirement for the matter to be reported e.g. Child Protection issues.

4. VOLUNTARY

Whether or not mediation is chosen to resolve a conflict or dispute is a voluntary decision and it is essential that you make a fully informed choice and are fully aware of what mediation involves.

5. WHO ARE THE MEDIATORS?

Aberdeenshire Council has a number of officers from across the Authority who have been trained to an accredited standard to undertake impartial and independent mediation. Please contact the Mediation and Employee Relations team in HR in order that a Mediator can be assigned.

6. THE ROLE OF THE MEDIATOR

The Mediator's role is to work with those in dispute and assist them to find a solution. The Mediator is there to bridge the communications gap, explore options, test out realities and help everyone focus on the real interests and issues. A Mediator's function is not to judge or decide on an issue but to be an independent voice of reason.

The mediator

- Is neutral and has no vested interest in the outcome
- Will identify common ground and help the parties to build on points they come to agree upon
- Will not impose a settlement or pass judgement.

7. WHAT ARE THE BENEFITS OF MEDIATION?

- Resolution may be achieved in days or weeks rather than months or years.
- It helps parties come together in face to face meetings to share information.
- It assists in clarifying misunderstandings and perceptions.
- Mediation can identify core issues which created the dispute in the first place.
- It enables the parties to come up with their own suggestions about how the problem can be resolved.

- Options can be explored and discussed.
- If successful, mediation gives greater satisfaction in achieving workable outcomes and keeps the focus on the future.



8. WHEN CAN MEDIATION BE USED?

Mediation is an option for use at any time when both parties genuinely want to see the end to a dispute or to ineffective negotiation. It is best suited when:-

- A resolution is desired
- Tensions and emotions are impeding communication
- The persons in dispute want or need to maintain or rebuild a working relationship
- They wish to keep the proceedings confidential.

Not everyone will immediately agree to participate in mediation. In some circumstances more information on the process itself is needed or an assessment of whether it is appropriate for a particular circumstance.

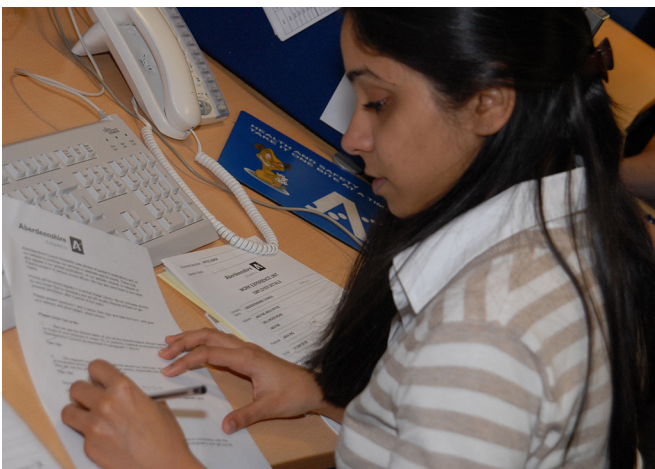
When mediation may not be appropriate
There are times when suggesting mediation may not be appropriate – these tend to be in cases where:

- There is the potential for one individual to harm the other.
- Criminal activity forms some part of the complaint.
- Either party feels there is a point of principle which needs to be tested or explained in detail.
- One party is not interested in settlement.
- When the individual is too ill to take part (it may be appropriate to consider referral to occupational health for medical guidance)

There are no hard-and-fast rules for when you can or cannot use mediation.

9. THE MEDIATION PROCESS

The whole basis of mediation is that it is a voluntary process. A mediator will be assigned in consultation with Mediation and Employee Relations team in HR and will be independent and impartial. The mediator will arrange with the parties a neutral venue for the mediation to take place.



Mediation often starts with an individual meeting with each person involved. The process is explained by the Mediator and

the party is invited to outline the position as they see it. Background information may be exchanged before that meeting. The Mediator may then meet jointly or individually with each party to explore the issues relating to the dispute, the issues around it and the parties concerns. Often this involves careful questioning on difficult and sensitive matters.

The Mediator would normally meet with everyone involved in a joint session to explore the issues relating to the dispute, the issues around it and the parties concerns. If a private meeting is held, at the request of either of the parties or the mediator, just as in the joint meeting everything that is discussed in the private meeting is confidential. The mediator will not reveal anything they are told in a private meeting to anyone else unless they are given specific permission to do so. The Mediators will also use the joint and private sessions to give assistance in identifying how to move forward. Once issues are fully explored in this way the role of the Mediator is to assist the parties to assess options available, formulate proposals, examine alternatives and overcome deadlocks. This may be in joint meetings with each other or a combination of joint and separate.

The length of mediation will vary from case to case but every effort will be made to achieve early resolution. When the parties have come to the stage of coming up with solutions through this kind of negotiation, a record of agreed outcomes is normally prepared. This record is confidential to those involved unless they agree otherwise.

For further advice and guidance on any of the above please contact the **Mediation and Employee Relations Team**, your Trade Union representative, or line manager.

Procedure

| Revision Date | Previous Revision Date | Summary of Changes |
|---------------|------------------------|---------------------------|
| 24-02-2011 | - | Creation of all Documents |
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