



**SUSSEX PEACEFUL SOLUTIONS**

— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

# Workplace Mediation

*A guide for all parties*



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## The contents of this guide

What is mediation?

The five key stages of workplace mediation

Making the referral: setting up the mediation

The individual meeting

The mediation joint meeting

## Appendices

Workplace Mediation – Some FAQs	15
Mediator Practice Standards	18
Mediation 'Referral form'	19
'Your Goals for Mediation' form	23



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## What is mediation?

Mediation is an alternative way of resolving a dispute or a conflict to that of a formal complaints or grievance procedure that empowers the people involved to find their own way forward. It is a voluntary process whereby the mediator helps the two or more people in dispute (the parties) to attempt to reach an agreement.

Any agreement comes from the parties themselves and not from the mediator. The mediator is not there to judge, to say one person is right and the other wrong, or to tell those involved in the mediation what they should do. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediation usually lasts for one full day. It creates a safe environment where parties are able to communicate and work towards the restoration of a positive working relationship. Mediation is a structured process which enables the parties to identify, consider and discuss their own and each others current and future needs.



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## The nature of workplace mediation

Mediation is underpinned by the following values and principles:

That it is **voluntary**. People should enter into mediation because they want to, and not because they feel compelled to do so.

It provides **a safe and constructive way of speaking and listening**. The use of basic ground rules prevents the process from being used as a means of threatening, intimidating or bullying participants.

It encourages **fair** and **equitable problem-solving** with a **focus on the future**. Every person involved in conflict has an idea regarding how it can be resolved. Mediation encourages **openness** and **honesty**, and it ensures that each person's point of view is considered. Through mediation, the participants develop realistic, agreed and measurable action plans.

Mediation is a **confidential** process and as part of this, the participants sign a confidentiality agreement prior to the joint mediation meeting.

It is **empowering** of the parties involved. The responsibility to resolve any given situation and the power to do so are firmly and squarely with those involved. They are supported in the process but ultimately it is they who own it and any outcome that is achieved.



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Unlike other workplace dispute resolution processes, mediation offers at its core, the opportunity for the parties to **repair** and **build relationships** that have broken down or run into difficulties.

## When is mediation appropriate?

There are no hard-and-fast rules for when mediation is appropriate but it can be used:

- for conflicts involving colleagues of a similar job or grade, or between a manager and a member of their staff;
- to rebuild relationships after a formal dispute has been resolved;
- to address a range of issues, including relationship breakdown; personality clashes;
- communication problems
- at any stage in a conflict that is being addressed via other resolution mechanisms, as long as any ongoing formal procedures are temporarily held in abeyance.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## What is a Mediator?

A mediator is an independent person who is invited into a conflict or dispute situation to work with the parties involved as they try to find a positive resolution to their situation.

The role is not to judge who is right or wrong or to tell the parties involved what to do. The mediator listens carefully to what the parties say and asks a number of questions to allow the parties to reflect and to share information. The mediator helps the parties to address their current concerns and issues as well as their expectations and goals.

Throughout the mediation process, the mediator considers how to support the parties in their wish to make things better, in the consideration of their future needs, expectations and options.



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## The six key stages of workplace mediation

Prior to mediation starting

1	Referral - setting up the mediation
	Making contact and gathering the information (typically by telephone)

The mediation day

3	9.30 am Pre-mediation meeting with first party
4	11am Pre-mediation meeting with second party
5	2-4pm Direct mediation (joint meetings)
6	Agreement and follow-up

Each of these stages is explained in more detail within the following pages of this guide.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Making the referral: setting up the mediation

### First steps

Often the first conversations about the appropriateness of mediation will be between the senior manager in the work area where the dispute/conflict exists, or between one of the parties involved in the dispute/conflict and with the HR/Line Manager for that work area.

As part of this conversation HR/Line Manager will:

- explore the concerns of the staff member or manager (i.e. the potential 'co-ordinator') in relation to the conflict or dispute;
- examine the background to the conflict;
- seek to understand the causes and effects of the conflict to the people involved, the current management action, the prevailing culture, the environment and the use of existing policies and procedures;

and

- consider the suitability of the issues at hand to be resolved through mediation.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Initial commitment from the parties to participate in mediation

Once the Mediation Co-ordinator and HR have discussed the case and agreed that mediation might be an appropriate route to resolve the issues, all parties involved then need to voluntarily agree to take part in the mediation process by confirming their willingness to do so to the co-ordinator.

## Moving to a formal referral

Once the parties have agreed to proceed with the mediation, the Line Manager/HR then makes the formal referral to Sussex Peaceful Solutions by providing the key details (on the form attached at **Appendix III**) which will include:

- the reasons for the conflict, as understood by the co-ordinator
- If any action taken and the impact of this action;
- the impact of the conflict on the individuals and to others in the wider work area;
- the involvement of other participants and how this has affected the conflict;
- what the co-ordinator hopes to achieve from the process.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Initial phone conversation between the mediator and the parties

Once the referral form has been submitted and a mediator is assigned, the mediator will then make contact with the parties to:

- provide any further explanation of what mediation is;
- explain the mediator's role in the process;
- to answer any questions and address any fears, and;
- to secure a commitment to mediate.

Assuming a positive outcome to this stage of the process the mediator will then ask the parties to complete a brief questionnaire - 'Your Goals for Mediation' (as attached at Appendix IV) - to prepare for the focus of the first individual meeting of the mediation.



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

## The individual meeting

The individual meeting with each party will last for up to one hour and fifteen minutes. The purpose of this meeting is to discuss the issues as each party sees them and:

- to hear the participants' experience of the history of the situation and to explore their future needs and expectations;
- To consider the various elements of the dispute and the impact on the individuals involved;
- To discuss participants' goals for mediation (goal for mediation questionnaire), and if helpful to prepare an opening statement for the joint meeting.
- To explain and clarify the role of the mediator and give more detail about the mediation process;

Throughout the mediation, the meaning of a positive and productive working relationship will be considered, how such a relationship can be restored, how this should happen, and how mediation can ensure that it will work.



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

The mediator will stress that the process can only be as effective as the parties want it to be. That if the parties want to find a solution, that they will likely find it. That the mediator(s) will do everything that s/he can to help those involved to find a positive and constructive way forward.

## The Mediation joint meeting

The joint meeting generally takes place in the afternoon of the mediation day. The joint mediation meeting is a carefully structured process which follows simple and effective guidelines with the aim of:

- establishing a safe and structured environment where all participants involved in the dispute/conflict can meet one another to engage in open and honest dialogue;
- providing a framework within which the participants can evaluate all available options and ultimately to arrive at realistic, manageable and agreed outcomes;
- developing an action plan and agreement about how best to work together and;
- to consider longer-term requirements and any follow-up arrangements.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Ground Rules

The safe and structured environment will be underpinned by the agreement of some basic 'ground rules' at the outset of this meeting. Typically this would include agreement of the following:

- confidentiality i.e. the agreements that have already been signed-up to
- courtesy;
- respectful communication and language;
- honesty;
- That all will listen as actively as they can.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Uninterrupted Speaking Time

After the ground rules have been agreed, each party will have the opportunity to tell their story. This is done during uninterrupted speaking time. The parties will in turn speak for approximately five minutes (but longer if necessary). This gives the opportunity to communicate to the other party what is of primary importance to them, it may cover much of the ground of what has brought them to be in this mediation process and the impact that the other parties actions and behaviour has caused to them. It might also include some reference as to how that person wants things to be in the future.

Each party is given the same opportunity to speak and listen. The party to speak second delivers what they have prepared for this meeting rather than responding to what they have just heard from the other person as there is full opportunity to engage with the other party's content in 'the exchange' that follows.

## The role of the mediator during the joint mediation meeting

The mediator's role is to act as a facilitator, to listen carefully, to ensure that ground rules are adhered to, to look out for the wellbeing of all of the participants, to ask open questions, to summarise what is said and to generally lead the meeting in a positive manner whilst ensuring everyone's point of view is considered.



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

## The exchange

After the uninterrupted speaking time comes the exchange. This is the time in the day for the parties to discuss the issues that are most important to them with the other person and to do so within the ground rules that have been established. It is likely that this will touch upon strong feelings for each person involved and this of course can be very challenging for all involved. The mediator's role is to allow this vital part of the day to happen but that it happens in as safe and contained a way as is possible, they will check on the parties welfare throughout this and all other parts of the day and propose 'time outs' as appropriate.

## Time-outs and/or caucuses

In some cases, the mediator, or one of the parties, may ask for the joint meeting to break into smaller one-to-one meetings (known as caucuses) with the mediator(s) or for a short period of time out to be on their own.

This may be called when:

- a difficult issue arises which requires personal and private consideration;
- the mediator(s) experience difficult or challenging behaviours;
- when one or both of the parties requests space and time to think and to reflect with the support of the mediator.



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

## Problem solving

All being well, once the parties have had the time that they need to speak and to be heard, they will then be supported to explore what a more positive future working relationship might be like. This stage will likely involve the generation of lots of ideas and options, the drawing down and evaluation of those ideas and options, and ultimately an agreement between the parties.

## The outcomes of the joint mediation meeting

There are no set formulae for how mediation should end. Every situation will be different and what is needed may be different depending on the circumstances. What is most important is that the parties have the opportunity to start talking again and that they agree what they want to happen in the future. However, what is agreed may include:

- an agreement outlining how the participants will interact in the future;
- an action plan to be monitored by parties for a specific time;
- future mediation involving other people or a whole team conference if there is conflict within a team;
- consideration of training and development issues or supervision and coaching needs;



# SUSSEX PEACEFUL SOLUTIONS

MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

Any outcome will be put in writing for the participants to consider, keep and follow.

## Workplace Mediation - Some FAQs

### How long does mediation last?

Mediation generally lasts for one full day. However, in more complex cases or in cases involving more than two parties, it may last for up to two or three days.

### Who are the mediators?

All of the mediators at Sussex Peaceful Solutions are fully trained, certified and experienced. Each mediator works within professional practice standards.

### Do mediators tell people what to do?

No. Mediators do not tell parties what to do. They do not judge who is right or wrong, nor do they impose a settlement or a solution.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Is mediation confidential?

Yes. Parties sign a confidentiality agreement prior to any joint meeting.

Mediators will not disclose anything that has been said during workplace mediation without the permission of the parties. If agreed by both parties, mediators provide a copy or a summary of the final agreement to the person who requested workplace mediation to enable them to continue to support/manage the situation. Mediators destroy all notes from mediation at the end of the process. Other than a copy of the agreement, we do not keep any records of the day and mediators will not provide evidence at any process or employment tribunal.

## Where does mediation take place?

Mediation takes place in a neutral venue ideally comprising of three rooms. If this is possible each party has their own private room for the entire day and there is a separate room for the joint meetings.

## Is mediation voluntary?

Yes. Mediators ask parties whether they have entered into the process freely and voluntarily. We do not force, trick or coerce parties to engage in mediation.



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

## Can I have someone with me during mediation?

Whilst it is recognised that parties may wish to have someone with them, the mediators will create an environment where parties do not need anyone else to support them. If parties do wish to bring someone this is possible during the first individual meeting only, and that person must sign a confidentiality agreement.

## What happens at the end of mediation?

Hopefully, parties will have reached a resolution to their dispute together with a number of points of agreement. These will be given to the parties at the conclusion of the mediation.

## I thought mediation was about us meeting each other. Why do we have to meet the mediator separately first?

Having separate meetings with the mediator gives all parties the opportunity to talk about the conflict from their point of view. The mediator listens to what each party says and explores how each party feels, what their concerns are, and what their underlying needs are.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

## Does mediation really work?

Yes. However, for mediation to work it requires a commitment from all parties. When parties enter into mediation with a willingness to listen and to respect each other, to challenge and to be challenged, and to seek a new way of working together, there is a good chance that mediation will work.



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

Appendix II

## Mediator Practice Standards

Mediators abide by a strict code of practice:

- Our work is confidential. We will not give detailed feedback about what is covered during mediation unless all parties specifically request us to do so.
- Mediation is voluntary. We will not force or coerce you into mediation.
- Mediators do not judge parties and do not assign blame or culpability.
- Mediators ensure that they are well prepared for every mediation session.
- Mediators are fully trained in all aspects of dispute resolution.
- Mediators engage in a process of ongoing professional development and reflective practice.



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

## CONFIDENTIAL

## Mediation Referral

### Form

Thank you for referring this case for mediation. This form should be completed, as fully as possible, and returned to:

#### *For use of Mediator*

<i>Date referral received</i>	
<i>Allocated to mediator(s)</i>	

*Date and venue of mediation*

*Date case completed/returned*

*Outcome of mediation.*

#### 1. Your details – Referrer/co-ordinator

Your name	
Position	
Your contact number	



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Email address

Your work address

Typical availability

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2. **Details of participants.** *Please note that the designated mediator will contact all parties by phone in advance of mediation.*

Department/section/directorate		
Name		
Position		

Phone numbers (including extensions

and mobiles). Please state preference.

Email address (work and/or personal)

Typical availability

Nature of party's working relationship

3. **Please provide a brief summary of the situation.**

*Please advise if the issues are being considered as part of a formal disciplinary or grievance or of any allegations that could include unlawful discrimination.*



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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

4.

Please provide details of any action taken to date to resolve, investigate of otherwise manage the situation including outcomes.

5. Is there anything else happening in the work area that may be contributing to the conflict i.e. recent structural changes?

*Please continue on separate sheets as required.*

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6. Please outline your expected outcomes of mediation. *These will inform the terms of reference.*



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

7. Please use this space to provide any further information that you feel is relevant to this case. If the case involves any allegations that are part of a formal disciplinary, grievance or claim of discrimination please provide copies of any relevant reports, confirmation of policy involved or details of operating procedures.

8. Other relevant details. (ensure that all points are met)	Yes	No
a. Are all parties aware that this case is being referred for mediation?		
b. Have the parties been provided with a copy of the Guide to Mediation?		
c. Are all parties aware of your expectations of mediation? (Section 6 above)		

- d. Are all parties aware that they will be contacted by phone prior to mediation commencing?



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MEDIATION - EXPLORING OPTIONS, MOVING FORWARD

e. Is everyone aware that the mediation will take a whole day?

f. Do understand that any detailed disclosure of the mediation agreement will be at the discretion of all the parties to the

mediation?

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9. To help with the expediency of this referral – can you suggest three possible dates for the mediation?

1.	2.	3.
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Follow up, if any, before proceeding:

**Your Goals for Mediation**

This **confidential** questionnaire is intended to help you consider your personal needs and goals before the mediation begins. There are, of course, no right or wrong answers.







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— MEDIATION - EXPLORING OPTIONS, MOVING FORWARD —

6. Do you have any comments or questions regarding mediation that you would like to discuss with the mediator?