

ULSTER UNIVERSITY

MEDIATION GUIDELINES

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1. INTRODUCTION

The Ulster University is committed to encouraging harmonious working relationships between colleagues. In most instances, workplace conflict between individuals is resolved informally as part of normal day-to-day practice without recourse to more formal procedures. The University is resolved to strengthen the informal processes and therefore mediation is being introduced as an option for parties to consider.

The addition of mediation to the University's procedures in relation to both Grievance and Bullying and Harassment increases the choices available to individuals in dispute. It offers a more creative way for participants to resolve their concerns through collaborative problem solving. Mediation is a versatile process, which can be used not only as an alternative to formal procedure but also as a rapid first intervention to prevent escalation of the dispute or even to repair the working relationship after formal procedures have been concluded.

1. WHAT IS MEDIATION?

Mediation is a process by which a neutral person (the mediator) assists members of staff who have a disagreement to help find their own solutions and reach a mutually agreeable outcome. It is based on the principle of collaborative problem solving, with a focus on the future and rebuilding relationships, rather than apportioning blame. It gives the participants an opportunity to step back and look at how the situation can be remedied, looking at their own actions as well as those of the other party.

Mediation aims to:

- Provide a way to deal with behaviour through constructive and efficient discussions which focus predominantly on the parties need and interests and which broaden the search for options and alternative solutions.
- Encourage individuals to take charge of their own decisions and to accept responsibility for the consequences of their decisions.
- Resolve conflict and reduce tension, anxiety, fear etc.
- Resolve conflicts at an early stage

Where all parties approach mediation in an open-minded, constructive way, it can prove to be extremely successful and it is therefore recommended that mediation is considered as a means of resolution at the earliest possible opportunity. To that end, mediation is voluntary on the basis that both parties must be committed to achieving a mutually agreeable outcome and solution. Either party can however withdraw from the process at any time.

Successful mediation will lead to both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances.

3. WHO ARE THE MEDIATORS AND WHAT IS THEIR ROLE?

The mediators are Ulster University staff drawn from a variety of backgrounds and roles throughout the University, who as volunteers, have been fully trained in mediation skills and techniques. The mediators are neutral and impartial, have no vested interest in

the outcome and will not impose an agreement. They will manage the mediation process, creating a safe and supportive environment so that both parties can talk honestly and openly about what has happened and how it has affected them.

What a mediator can do:

- (a) Help the parties individually to analyse the problem and decide what they want to achieve
- (b) Help the parties to discuss jointly and to reach common ground

What a mediator cannot do:

- (a) Solve the problem for the parties
- (b) Act as an intermediary between the parties and the institution
- (c) Make any judgement about the case

4. GENERAL PRINCIPLES OF MEDIATION

- (a) Where there is conflict in working relationships colleagues may choose to participate in mediation as a means of resolution. Mediation is voluntary.
- (b) Mediation is available to all members of staff.
- (c) The appointed mediator will be independent of both parties to ensure impartiality (the mediator won't take sides or judge who is right or wrong). The mediator will not make any decisions. Rather, both parties are responsible for the outcomes of the process and the implementation of same.
- (d) Mediation will be strictly confidential between the two parties and the mediator. The only exception to this rule of strict confidentiality is where there is a potential unlawful act or where there is evidence of a serious risk to health and safety. In these circumstances, the process will be terminated and the Mediation Service Co-ordinator informed.
- (e) Given that mediation is designed to take the matter out of the formal arena for resolving conflict, there will be no direct involvement from other parties (e.g. trade union representatives, management, other work colleagues etc.) during the mediation process other than in very exceptional circumstances.
- (f) Agreeing to mediation does not take away an individual's right to access other HR procedures. However, information revealed/discussed during mediation will not be admissible in such cases.
- (g) Once resolution has been achieved, both parties will sign an agreement. This remains confidential between the parties and the mediator but may, if appropriate, be shared with the line manager. All notes taken by the mediator during the process will be destroyed.
- (h) Agreements reached in mediation are not normally legally binding. It is however expected that parties will follow the agreement.

- (i) If for any reason the mediation process does not lead to a resolution acceptable to both parties, the mediator involved in the process may not be called upon as a witness or to assist in any way if formal procedures, internal or external, are invoked by any of the parties to the mediation on the issues covered by the mediation.

5. WHERE DOES MEDIATION FIT IN?

It is the expectation of the University that staff will be able to resolve disputes informally, through dialogue and communication with their managers and their colleagues. The Grievance Procedures and Bullying and Harassment Procedures encourage staff to resolve disputes informally before resorting to the application of formal procedures.

Mediation offers an alternative to pursuing complaints and disagreements between colleagues through the staff Grievance Procedure or the Bullying and Harassment Procedure. It can be a more effective way to resolve disagreements informally before a more formal procedure is involved. If you agree to take part in mediation, this does not prevent you from pursuing your grievance or complaint through a formal procedure in the event that mediation does not resolve the issue.

Where mediation is requested by the parties' part way through the formal Grievance or Bullying and Harassment Procedure, the formal procedure will be temporarily suspended pending the outcome of the mediation.

6. THE MEDIATION PROCESS

Irrespective of who suggests mediation, it is still a voluntary process, which can only be entered into with the agreement of both parties. All requests for mediation must be made to the Mediation Service Co-ordinator via the Human Resources department; mediators should not be approached directly.

- 6.1 The University's mediation process follows a five-stage model and is facilitative in nature:

STAGE 1 – First contact with the participants (individual meetings)
STAGE 2 – Setting the scene (joint meeting)
STAGE 3 – Exploring the Issues
STAGE 4 – Building the Agreement
STAGE 5 – Closure

6.1.1 **STAGE 1 – First contact with the participants (individual meetings)**

The mediator will meet both parties individually for the purpose of:

- Explaining the role of the mediator and the process of mediation, including confidentiality; and
- Defining the core issues and identifying the ideal outcome expected by both parties
- Assessing whether the problem presented is suitable for mediation.

The mediator may need to meet either or both parties again to clarify any further issues arising from Stage 1.

6.1.2 **STAGE 2 – Setting the scene (joint meeting)**

The mediator will:

- Welcome and do any necessary introductions
- Agree the agenda
- Set the boundaries and ground rules
- Explain and agree the process
- Provide uninterrupted time for each party to relate their experience, how the dispute arose and their main issues
- Clarify and summarise the agreed areas of conflict

6.1.3 **STAGE 3 – Exploring the issues**

The mediator will:

- Explore the issues with the parties
- Encourage communication
- Manage any conflict during the early stages of the discussion
- Encourage a mutual understanding about the problem
- Check understanding and clarify assumptions

6.1.4 **STAGE 4 – Building Agreements**

Mediation will work towards:

- Generating and evaluating options
- Encouraging problem solving
- An acceptance or acknowledgement of conciliatory gestures
- Encouraging both parties to move from a non-negotiable stance, focussing on future resolution rather than the past problem
- Constructing agreements
- Creating fall back arrangements
- Identifying what next if no agreement reached

6.1.5 **STAGE 5 – Closure**

- The session will be concluded when both parties agree that they have dealt with the conflict and have reached a mutual agreement with a clear understanding of what has been agreed
- An agreement will be drawn up in clear unambiguous language for signing by both parties (Appendix 1), clarifying their responsibility for its delivery
- Those involved in the mediation will be given a written copy of anything that is agreed
- Confidentiality will be respected

- Closing the session

6.2 Post Mediation – Evaluation

It is the intention of the University to monitor the impact and effectiveness of the mediation scheme. Accordingly, the parties will be given the opportunity to complete an evaluation of the mediator and the mediation process. The mediator will also undertake a process of self-evaluation, feeding any suggestions for improvements to the Mediation Service Co-ordinator. Evaluation material will be collated by the Mediation Services Co-ordinator and treated in the strictest confidence. No personal information will be revealed as part of this process.

**ULSTER UNIVERSITY
AGREEMENT REACHED THROUGH MEDIATION**

Name:	Name:
Faculty/Dept:	Faculty/Dept:
We, the undersigned, have agreed to:	
Signed:	Signed:
Print Name:	Print Name:
Date:	Date:
Signed in the Presence of: _____ (Mediator)	

FREQUENTLY ASKED QUESTIONS

Do I have to agree to take part in mediation?

No. Mediation is entirely voluntary and needs the agreement of both parties. If you agree to take part, you are also free to leave or withdraw at any time. This allows you and the other party to drive the process yourselves and come to your own agreement rather than having an outcome imposed upon you. It is hoped that this will make you both feel more committed to what you agree.

Although Mediation is an informal alternative to formal procedures, you retain the right to raise a grievance or Bullying and Harassment complaint under the University's formal procedures should you choose to do so.

How confidential is mediation?

The process of mediation is entirely confidential. Any notes or records made by the mediator during the process will be destroyed. The mediator will not divulge any confidences that are shared unless given permission to do so. The one exception to this is where the mediator reasonably considers that the life or safety of any person is or may be at serious risk. Should this happen the mediation process will be stopped and the Mediator will alert the Mediation Service Co-ordinator.

By taking part in mediation, will I give up my right to raise a formal grievance or complaint?

No. Mediation is 'without prejudice', and if you agree to try mediation you reserve your right to pursue formal procedures. However, the mediation process is entirely confidential and mediators cannot be called as witnesses at any subsequent proceeding, whether internal (e.g. grievance or disciplinary hearings), or external (e.g. employment tribunals).

What if I am unhappy with the mediation process?

Should you feel uncomfortable or unhappy with any aspect of the mediation process itself you should raise this with the mediator or Mediation Service Co-ordinator. If your concerns cannot be resolved, the mediation will have to be abandoned. Since the mediation process is confidential, it would not be appropriate for you to raise a formal grievance in relation to the mediation itself, as there can be no meaningful investigation.

You will also be given the opportunity to complete an anonymous mediation evaluation form at the end of the process to provide feedback on what we are doing well and where we need to improve. Your response will be treated confidentially.

What can I expect to happen in mediation?

Once you and the other party have agreed to take part, the Mediation Service Co-ordinator will contact you both to discuss initial arrangements and allocate a mediator to deal with your case. The mediator will then be in touch to arrange a date to suit you both

The mediator will initially arrange to meet with each of you separately to find out more about the situation from your own perspectives before bringing you both together in a joint meeting. At the joint meeting, your mediator will encourage you both to participate. He/she will work with you to ensure you each have the same opportunity to express your feelings and concerns, look at the problems in turn and move towards a mutual solution. Your Mediator will support and encourage you to generate ideas for this solution but will not tell you what you should do.

When can I ask for mediation?

You can request mediation at any time and both before, during or after any formal proceedings as long as you genuinely want to see an end to the dispute.

What kinds of disagreement are suitable for mediation?

Most kinds of dispute can be mediated if those involved want to find a way forward. Mediation is especially suitable when the aim is to maintain the employment relationship.

Mediation will however not be appropriate in every situation e.g. where there is a disagreement about whether an employee is entitled to a particular benefit under the terms and conditions of employment or where the complaint is an allegation of serious bullying or harassment which could lead to serious disciplinary action. It may also not be suitable if you want to enhance a legal right or want someone to decide the 'rights and wrongs' of an issue for you.

Where will the mediation take place?

Mediation will be held at a neutral location within the University convenient to both parties.

How long does mediation take?

Most mediations do not last for more than a few hours.

Is a mediation agreement binding?

During the final stage of the Mediation, you will be encouraged to agree a way forward and formulate a plan of action. This may be in the form of a written agreement, informal statement or verbal understanding, but what is important is that you have both been involved in its development, have a clear understanding of what you want to achieve and have agreed to abide by it. Any agreement reached is not legally binding but is covered by the confidentiality of the mediation.

What if I don't like the mediated agreement?

There can only be a mediated agreement when all parties agree. If you feel you are being asked to agree to something, which you are not genuinely in favour of you should speak to the mediator to explain your objections. You and the other party are responsible for defining the problem, deciding the content and terms of the agreement. No agreement can be imposed through mediation.

Can I be made to keep an agreement reached in mediation?

Parties who agree to take part in mediation do so on the understanding that they intend to keep to any agreement reached. Whilst the agreement is not legally binding, it is expected that individuals will follow the agreement.

What if we do not have the authority to resolve the dispute?

Then you will be asked if you wish to involve those people who do hold the necessary authority. This might be your line manager for example, but they will only be contacted with the agreement of both parties. It is important that any suggestions made by the parties are realistic and acceptable to managers and colleagues in your area.

Will mediation work?

Mediation has a high success rate but of course, there can be no guaranteed outcome. The mediation is there to help but it is up to the parties involved to reach their own agreement.

What if I'm not ready to be in the same room as the person I am having the disagreement or dispute with?

Your Mediator will take this into account and will not make you meet with the other party if you do not agree. However, for mediation to stand a chance of success all parties will eventually have to meet around the table.

What is my role in mediation?

Mediation is only as successful as you make it. Your responsibilities are to:

- Decide what the issues are for you in the dispute
- Come to the meeting with an open mind
- Listen respectfully to the other party's point of view
- Look for solutions
- Work with the other party to determine which solution is best for both of you

What do I need to do before the mediation begins?

In preparing for any mediation meeting, it may be helpful to think about how you can clearly describe the situation or issues that have brought you to mediation in the first place. In this way, the other party can better understand your point of view. Think about what is important to you, what you need from the other party and from your perspective, what you believe is the best possible outcome.

Do I need to speak to my manager if I have an issue or wish to request mediation?

There is no need to speak to your manager although you may choose to do so in the first instance to try and resolve any workplace issues or to gain the other parties agreement to take part in mediation. You can request mediation through your line manager, HR Business Partner or directly through the Mediation Service Co-ordinator.

Will any information be disclosed to my manager?

Only if you and the other party agree for this information to be shared. Your mediator will not disclose any information to your line manager. Whilst it can be helpful for your line manager to understand how the mediation went and if a resolution has been reached, any feedback will be a matter for you and the other party to agree.

Am I allowed time off to attend mediation meetings?

If you require time off during work to attend a mediation meeting, this should be agreed with your line manager.