

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Personnel Committee 16th October 2017

Report of the Head of Human Resources – Sheenagh Rees

Matter for Decision

Wards Affected:

All wards

Introduction of a Mediation Policy

1. Purpose of the Report

The purpose of this report is to seek approval from Members to introduce a Mediation Policy.

2. Background

Workplace mediation is a process whereby an independent third party (the mediator) assists two or more parties who are in dispute to try to reach a mutual and manageable agreement as to how they will work better together in the future. This is achieved through a series of facilitated and structured meetings, normally in a one day session.

This is an informal resolution route that can be introduced at any stage of a dispute, although the earlier the better, provided that both or all parties are willing to enter into the process voluntarily. The confidential nature of workplace mediation ensures a safe environment in which the parties can have open and honest discussions, reassured in the fact that nothing will be disclosed to anyone else without the expressed agreement of all those involved. The resulting

agreement is morally binding, it does not have any legal status and all content is without prejudice.

The ACAS code of practice on Disciplinary & Grievance Procedures (the 'Code') which came into force in 2009 encourages employers and employees to resolve disputes in a less formal way and states:-

“Employers and employees should always seek to resolve disciplinary and grievance issues in the workplace. Where this is not possible employers and employees should consider using an independent third party to help resolve the problem. The third party need not come from outside the organisation but could be an internal mediator, so long as they are not involved in the disciplinary or grievance issue. In some cases, an external mediator might be appropriate.”

Whilst the Code is not legally binding, when an employee is dismissed and they bring an unfair dismissal claim to an Employment Tribunal, the Tribunal will, when deciding the fairness of a dismissal consider if the principles of the Code have been followed. In addition to this, when considering the levels of compensation to be awarded will include a 25% uplift on any award given if the Code has not been followed.

Employers cannot be forced to implement mediation, because it has to be a voluntary process, but if an employer unreasonably refuses to instigate mediation when one is requested, a tribunal might well take a rather dim view.

As a result of this, employers recognise that mediation has a place within employee relations processes. With employees being paramount to organisation success, conflict and disputes between employees can have a very negative impact on motivation, engagement, health and well-being and, of course, productivity and performance of individuals and the organisation as a whole. Mediation has a key role to play in resolving conflict quickly and cost effectively.

3. Current Position and future planned actions

Where grievances and disputes arise currently, mediation is offered on an ad-hoc basis, should the situation lend itself to this process, as not all situations are suitable for mediation.

Where mediation has taken place up until now, we have engaged the services of ACAS which the employing Directorate has to fund – costs can be considerable, depending on the length and complexity of the mediation.

Going forward, the plan is to utilise the Council's internal network of Conflict Resolution Officers (CROs) who are recruited from within the Council and trained to assist in the resolution of conflicts arising from dignity at work complaints. CROs are employees who have volunteered for this role, and have been selected and trained to support staff.

The CROs have undertaken Mediation training and are certified Mediators. They will carry out mediation as detailed in the Mediation Policy and at no additional cost to the Council.

The HR Business Manager has also been trained in mediation and she will act as the Mediation Coordinator. This role will ensure that when employees / managers identify mediation as a way of resolving a dispute, they contact her and after receiving details of the dispute, confirm that the matter is suitable for mediation.

4. Consultation

The Joint Trade Unions have been fully consulted on this Policy at the Local Government Services Forum and they are fully supportive of the introduction of this policy.

5. Implementation

In order to ensure that employees are aware of the Mediation Policy, it will be placed on the HR Intranet, an article will be placed 'In The Loop' and Heads of Service will be requested to cascade the information to managers and employees within their respective service areas. The Trade Unions will

also promote mediation as an option when contacted regarding workplace disputes.

6. Financial Impact

There are no financial impacts associated with this report.

7. Equality Impact Assessment

An Equality Impact Assessment screening form was completed to assist the authority in complying with its Public Sector Equality Duty. The screening indicated that there was no requirement to carry out a full equality impact assessment. Please see Appendix 1.

8. Workforce Impacts

The introduction of Mediation into the Council will have a positive impact on the workforce as it provides a solution to resolving workplace disputes.

9. Legal Impacts

There are no legal impacts associated with the introduction of a Mediation Policy as it is compliant with employment legislation.

10. Risk Management

There are no risk associated with this report.

11. Consultation

There is no requirement under the Constitution for external consultation on this item.

12. Recommendations

It is RECOMMENDED that Members APPROVE the introduction of a Mediation Policy.

FOR DECISION.

13. Reasons for Proposed Decision

To provide employees with an informal route of resolving workplace disputes.

14. Implementation of Decision

The decision is for immediate implementation

15. Appendices

Appendix 1 – Equality Impact Assessment Screening Form

Appendix 2 – Mediation Policy

16. List of Background Papers

ACAS Code of Practice on Disciplinary and Grievance Procedures

17. Officer Contact

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