

# Mediation Policy



Human Resources

**APPROVED BY**

**DATE**

**EDITION/VERSION** 1

**REVIEW DATE**

## Contents

## Page

1	Introduction	3
2	Policy Aims	3
3	Definition	4
4	Mediation Process	5-6
5	Confidentiality	7
6	Monitoring and Review	7

## Appendix One

Mediation Agreement	8-9
---------------------	-----

## Appendix Two

Mediation – Monitoring Form	10
-----------------------------	----

## 1. Introduction

- 1.1 Neath Port Talbot Council recognises that encouraging effective working relationships between individuals will have a positive impact on staff wellbeing and staff performance.
- 1.2 The Council wishes to support staff and managers to work together to resolve disputes and conflicts at a local level, to ensure minimum disruption to the delivery of Council's priorities and objectives, and to maintain high levels of morale and performance.
- 1.3 Mediation is widely recognised to be an effective tool for resolving interpersonal conflicts between colleagues, managers and their staff, or conflicts between teams.
- 1.4 Where issues cannot be resolved locally and relationships breakdown this policy has been designed to provide assistance.

## 2. Policy Aims

### 2. Policy aims

- 2.1 The policy has been adopted to provide individuals with an objective and impartial framework for resolving conflicts at an early stage.
- 2.2 It offers an alternative first stage option for resolving conflict and also provides a process for reconciling working relationships, if this is recommended, following a formal hearing.
- 2.3 This policy constitutes one part of a series of policies and procedures that are in place to resolve conflicts at work and should be read in conjunction with these. They are to be found in the Grievance Policy and Procedure, the Dignity at Work Policy and the Disciplinary Policy and Procedure which are available to view via the HR intranet. If you do not have access to the intranet, these documents are available from your supervisor/line manager or trade union representative.

### 3. Definition

- 3.1 Mediation is a method of conflict resolution which brings people together with an objective third-party in order to rebuild a damaged working relationship and find solutions to practical problems between them.
- 3.2 Workplace mediation is most effective when people enter the process voluntarily. Throughout mediation people are helped to identify their own solutions and agreements.
- 3.3 Mediators are impartial to the conflict and will help all parties equally. Mediators do not express opinions or make judgements about who is right or wrong or provide solutions.

## 4. The Mediation Process

- 4.1 The mediation scheme is voluntary and any individual can request an initial confidential conversation with the Mediation Co-ordinator who has received training in the use of mediation and has a detailed understanding of the process. No details of the matter need to be provided at this stage.
- 4.2 Alternatively, information is available at [intranetlink]. A manager, HR representative, Union representative or staff member may also suggest, encourage or refer to mediation.
- 4.2 After any initial conversation a request for mediation should be directed to the Mediation Co-ordinator. Requests may be made in person, in writing, via e-mail or by phone.
- 4.3 The Mediation Coordinator will then ascertain the willingness of both parties to consider mediation before contacting a mediator. If mediation is considered appropriate, all individuals must voluntarily agree to be involved.
- 4.4 In all cases, a telephone call will be arranged with a trained mediator from within the Council. The purpose of this initial contact will be to identify and understand the key issues and assess if mediation is the right way forward. The mediator will answer any questions each party may have about mediation at this meeting. The mediator will not reveal the content of these meetings to anyone.
- 4.5 The telephone call with the mediator will be strictly confidential and the other individual/s involved will not be informed at this stage if there is a commitment to mediation.
- 4.6 Mediation is confidential, and the parties are required to maintain confidentiality in respect of all information arising through the process..
- 4.7 The mediator will contact all individuals with details on time/place/venue for the mediation process.
- 4.8 A second trained mediator will be appointed to the case to take accurate notes during all meetings and also to act as a second mediation facilitator if needed.
- 4.9 Mediation will not be recommended if a decision is required by a higher authority or the issues relate to Neath Port Talbot Council's statutory obligations or duty of care. In addition, if there is a risk to safety / well-being or if formal action has been instigated then mediation will not be appropriate.

### Stage 1 – first contact with the parties

- 4.10 Each participant must sign a confidentiality agreement prior to the commencement of Stage 2 (Appendix 1)
- 4.11 During this stage, the mediator meets with the parties individually. The mediator will cover introductions, explain mediation and the role of the mediator and seek commitment to the mediation process. It is during this meeting that the mediator will

find out about the situation and the expectations of both parties. The second mediator will also attend to take notes and ask any relevant questions. Preparation is also carried out for the joint meeting.

### Stage 2 – Hearing the Issues

- 4.12 During the joint meeting each person will have a chance to speak, and the mediator will help to clarify the issues that need to be addressed. Once the issues have been identified and discussed, the mediator will assist the individuals to identify possible solutions and rebuild mutual trust.
- 4.13 The mediator will work with the parties on improving communication and interaction. Individuals will be encouraged to be open and honest, and express their feelings clearly and constructively to one another.
- 4.14 All discussions during the mediation are confidential and no information can be passed on by the mediator, by either party, or by any accompanying colleague, about any of the proceedings.
- 4.15 Any notes taken during the session must be destroyed at the end of the session in front of the other parties, with the exception of notes relating to any agreements or records of understanding that are taken by the mediator.

### Stage 3 – Exploring the Issues

- 4.16 This stage identifies and clarifies the areas to explore. The aim of this part of the meeting is to begin to shift the focus from the past to future, identifying areas of common or different interest and begin to look for constructive solutions.

### Stage 4 – Building Agreements

- 4.17 This part of the process encourages and supports joint problem solving between the parties and encourages them to generate options, highlighting concessions and assisting the parties to evaluate these options. It is during this stage that areas of agreement are recorded and the Mediation Agreement is written and signed by all parties.
- 4.18 Some thought may be needed at this point as to how to debrief others who may need to know any outcome. The person referring the issue to mediation will need to be informed of whether the process was successful. Others might need to be briefed if they will contribute to the success of any mediation outcome(s). The Mediator will ensure that the Mediation Coordinator is informed whether a successful outcome has been reached in writing.
- 4.19 If an agreement is not reached individuals may still use the formal procedures but the mediator cannot be called to participate in any process or procedure in any capacity.

## 5. Confidentiality

5.1 No personal information obtained during any of the meetings held will be passed on to anyone outside the mediation process without express permission. Consent will be obtained prior to the disclosure of any personal information if this information is deemed necessary.

Information may be disclosed where:

- A party reveals they have committed a criminal offence
- There is a legal requirement to disclose information
- There are clear indications that there is a serious risk of harm to a participant or others
- The mediator believes that inappropriate and overt behaviour may have taken place during the mediation process.
- Where the mediator needs to inform someone, who is key to ensuring the any agreement arrived at, is maintained/completed.

## 6. Monitoring and Review

6.1 The Mediator should agree a review period as part of any agreement, to assess whether 'the agreement' has been a success or whether any further mediation is required. The duration of the review period will vary depending on the circumstances and it may be appropriate to have more than one review period. After each review, the Mediator will update the relevant parties, referred to in 4.18.

6.2 De-personalised information will be collected on gender, ethnic origin, age group, disability, sexuality and religion for monitoring purposes. The nature of the issue will also be recorded. Some confidential monitoring of outcomes will also be recorded in Appendix 2

6.3 There is no appeal process associated with mediation. If one or more of the parties are not satisfied with the outcome, other formal procedures will apply.

6.4 A periodic review of this policy will take place in light of legislative changes and working practice.

## The Mediation Agreement

The mediator must arrange for a copy of the Agreement to be signed by all participants before agreeing the mediation can take place. It is important because it sets out the terms and conditions under which mediation will proceed.

The mediator should present the Agreement to each participant prior to the commencement of the Stage 1 meeting.

### What is mediation?

Mediation is a method of conflict resolution which brings people together with an objective third-party in order to rebuild a damaged working relationship and find solutions to practical problems between them.

### What is the role of the mediator?

The mediator is impartial and independent. The mediator does not take sides, nor does he or she express a view about what is right or wrong. There is no room for blame in mediation. Mediation helps you to focus on the future and to find your own solutions.

The mediator is not there to advise you, but he or she is able to direct you to sources of support if you need this. The mediator can also help you to work out whether any agreement is likely to work.

The mediator works with everyone equally to make sure everybody can participate equally in mediation. Sometimes, a person may need additional support to present their views to the other people taking part in mediation. The mediator may offer this support to ensure equal participation but, if he or she does this, is not taking sides.

### What must parties agree to?

Treating all participants with mutual respect.  
 Being willing to understand each other's stance/problems.  
 Being willing to work towards a mutually agreeable solution  
 Confidentiality and privilege (see section 5)

### Ending Mediation

As a voluntary process, you have the right to end the mediation session if you wish to. Before you do, the mediator will speak with you about your concerns and why you wish to end the mediation session. The mediator will respect the wish of any participants to end mediation.

The mediator also has the right to end mediation if he or she considers that it would not be in the best interest of the participants to continue.



## Confidentiality and Privilege

The mediator has a professional duty to ensure that any information obtained through the mediation process remains confidential and is not disclosed to anybody who is not a participant. However, there are some exceptions to this:

- A party reveals they have committed a criminal offence
- There is a legal requirement to disclose information
- There are clear indications that there is a serious risk of harm to a participant or others
- The mediator believes that inappropriate and overt behaviour may have taken place during the mediation process.
- Where the mediator needs to inform someone, who is key to ensuring the any agreement arrived at, is maintained/completed.

In some cases, mediation takes place against the backdrop of actual or pending Court/Tribunal proceedings. You agree not to call the mediator to give evidence in that Court.

The discussions you have in mediation are legally privileged. Neither you, nor the mediator can be compelled to reveal those to any other party and, as above, no use may be made of information disclosed through the mediation process in any of the Council's HR policies and procedures.

Any written account of the matters you have agreed is also legally privileged, unless all participants willingly agree to waive privilege of this.

### **Agreement**

I have read and understood the above and also agree for the outcome of the mediation to be communicated to the referrer, where applicable.

Name of referrer \_\_\_\_\_

Name of employee (print) \_\_\_\_\_

Signed \_\_\_\_\_

Date \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

# Mediation – Monitoring Form



Human Resources

Mediation– Monitoring Form									
Mediator's Name									
Nature of Alleged Unacceptable Behaviour:					Sexual				
					Racial				
					Disability				
					Sexuality				
					Religious Belief				
					Age				
					Bullying				
Other									
If Other Please Specify									
Employee 1									
Directorate	CHEX		ELL		ENV		SS&H		FCS
Sex	Male				Female				
From Black Ethnic Minority Group	Yes				No				
Disabled?	Yes				No				
Age Group	16-19		20-24		25-34		35-44		
	45-54		55-64		65-74		75+		
Employee 2									
Directorate	Chex		ELL		ENV		SS&H		Fin
Sex	Male				Female				
From Black Ethnic Minority Group	Yes				No				
Disabled?	Yes				No				
Age Group	16-19		20-24		25-34		35-44		
	45-54		55-64		65-74		75+		
Dates of Meetings with the Employees									
Was agreement reached? If yes, please summarise									
Signed					Date				

