

## Our Workplace Mediation Service

Do you have conflict in the workplace that takes up your valuable time and has a damaging effect on team performance?

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Mediation can help resolve disputes through constructive dialogue.

How could mediation help you? What happens at a mediation?

## Meet Our Workplace Mediator

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Rebecca Ireland, a partner at gunnercooke llp, is a highly experienced employment lawyer, as well as a qualified workplace and employment mediator. She has extensive technical and commercial expertise having handled many complex and sensitive matters regarding all aspects of employment law. In the most recent edition of Chambers and Partners UK 2019 guide, Rebecca was highlighted by clients for being "*personable, professional and knowledgeable, and great at developing client relationships*".

Rebecca acts primarily for employers, across a diverse range of business sectors. However, she also advises senior executives and directors, which gives her the advantage of handling issues from both perspectives. She provides clients with practical solutions, which satisfy the legal requirements and commercial drivers. She is also mindful of the emotional impact on the employment relationship when conflict arises.

Rebecca works closely with her employer clients on an ongoing basis, allowing her to understand their businesses, proactively advise on the impact of new laws and deliver appropriate training and coaching to the Human Resources team.

Rebecca is commended for her user-friendly, down to earth, approach.

## Getting in Touch

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You can call Rebecca Ireland on [07383 437 939](tel:07383437939) to discuss embedding mediation into your business or to discuss the suitability of mediation for a issue.

Alternatively, you can email Rebecca on [rebecca.ireland@gunnercooke.com](mailto:rebecca.ireland@gunnercooke.com).

## Our Service

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gunnercooke's workplace mediation team can help you:

- Resolve difficult 'people' issues speedily and effectively; and
- Optimise working relationships and effectiveness for organisations, teams and key individuals, leading to greater success and wellbeing.

Workplace mediation is a perfect vehicle for encouraging an open and confidential dialogue at an early stage, to avoid the conflict escalating, and perhaps ending up in an Employment Tribunal. Bringing an external mediator into the meeting can improve greatly the chances of achieving a successful, sustainable, outcome by offering a fresh approach to resolve a problem. We can help calm tensions and facilitate transformed ways of working together after 'issues' have arisen. We can bring a dose of common sense from highly experienced specialists who are 'neutral'.

## Overview

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Mediation is an increasingly useful step in overcoming unpleasant, time consuming and costly disputes in the workplace. With its emphasis on improving the future interpersonal relationship between disputing parties, there are many business benefits to using mediation. Workplace Mediation can avoid a conflict spiralling out of control, by allowing the parties to express their needs and explore how these can be met. Mediation works because the parties have reached the solution themselves.

## What is the aim of Workplace Mediation?

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The aim of Workplace Mediation is for the parties to sort out their problems within a safe environment, or at least improve the working relationship, and often results in an action plan. Mediation is a more flexible way to resolve disputes, in that the parties can reach a settlement which includes anything they wish. It is not restricted to remedies available in the Employment Tribunal/Courts. A successful mediation results in a "win-win" outcome.

## When can you use Workplace Mediation?

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There are no strict rules for when you can or cannot use Workplace Mediation. However, the following disputes tend to respond well to Workplace Mediation:

- Personality and management style clashes.
- Communication problems.
- Difficulties arising from re-organisation or re-deployment.
- Perceptions of unfair treatment.
- Harassment, bullying and discrimination (at a low level).

Workplace Mediation can be used to deal with any interpersonal or behavioural 'issues' which are damaging good working relationships and sapping productivity, creativity or effectiveness on many levels:

- Within an internal team.
- Between internal teams.
- Between staff and management sides.
- Your board or partnership.
- Joint venture collaboration.
- Important clients or suppliers.

- Key individuals in any of the above.

Workplace Mediation can also be used to integrate an aggrieved employee back into the workplace after a formal grievance, performance or disciplinary process, to help re-build the working relationship.

Workplace Mediation will not be the answer to all workplace disputes, and a mediator's initial role is to assess whether Workplace Mediation is suitable on a case by case basis. The Mediator will assess its ongoing effectiveness throughout the process. Most importantly, we will not accept instructions to act as a mediator if we are concerned that the parties have been coerced into attending the mediation.

We can help you assess the suitability of using mediation.

## Pricing Structure

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A Workplace Mediation tends to take at least a full day to complete. Therefore, we usually charge a fixed daily rate, plus travel and other expenses. Please call Rebecca Ireland for a fee quotation.

## Team Facilitation and Training

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We can deliver a workplace conflict resolution workshop to equip your managers with a range of practical skills to help them manage effectively workplace disputes, to minimise the detrimental impact this can have on your business. The workshop touches on some conflict management theory and potential legal pitfalls if you do not deal with conflict properly, but our aim is to give participants ample opportunity to practise techniques, through a mixture of interactive activities.

## What is the Mediator's Function?

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The Mediator's role is to act as a catalyst to enable the parties to resolve their dispute for themselves. To do this the Mediator will:

- Discover what the dispute is about from each party's perspective, in terms of issues, feelings and concerns, without focussing on specific past allegations.
- Seek to uncover any underlying issues, which may have been hidden previously, and which may be impacting adversely the working relationship.
- Ascertain what is important, and what is not, to each party participating in the mediation.
- Try to get the parties to empathise with the way that each feel.
- Establish areas of common ground and encourage the parties to agree a joint list of issues.
- Invite the parties to discuss these issues between themselves in an open and constructive way and support the parties to reach a mutually agreeable resolution to those issues.
- Regulate the joint discussion. For example, if one party is becoming aggressive or rude the Mediator will intervene.

At all times, the Mediator acts impartially, and has no authority to make decisions regarding the parties' issues. In this way, mediation is not the same as arbitration, which is another form of alternative dispute resolution with which you may be familiar.

# What happens at a Workplace Mediation?

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## Initial Contact Meetings with Each Party

The workplace Mediator will meet with each party separately and in private. During this meeting, the Mediator will:

- Check that the party is attending the mediation voluntarily.
- Outline how the mediation process will work, and the role of a mediator, as an impartial facilitator rather than an adjudicator or judge.
- Explain the requirement for confidentiality from both parties and ask the party to sign a short confidentiality agreement, and refrain from taking any notes.
- Clarify that if mediation does not resolve the dispute, other avenues will still be open to the parties (e.g. the formal grievance process)
- Deal with any questions or concerns the party has about the process and ensure that he/she is still happy to proceed.
- Invite the party to set out how he/she feels about their working relationship with the other party, with a view to establishing what he/she wants to achieve through mediation.
- Seek the party's agreement to continue with the mediation.

Unless otherwise agreed, up to 1.5 hours will be set aside for each meeting. This should be enough time for each party to tell the Mediator his/her side of the story, as the Mediator only needs to understand the party's concerns and what each wants to happen in order to improve the working relationship, not on the detailed allegations being made and defences. This is because the Mediator does not take sides or pass judgement. Workplace Mediation aims to help the parties resolve their current differences by looking to the future, not dwelling on the past.

The mediation process will only progress to a joint, face to face, session, if that is what both/all the parties want. The alternative approach, which may be preferable for one or more of the parties, at least at the outset, is a 'shuttle' mediation. This involves the Mediator going back and forth between the parties, who remain in their separate rooms, whilst facilitating an arm's length joint session. The disadvantages of 'shuttle' mediation are that:

- It can prolong the mediation process; and
- The parties do not actually see how each of them really feel about their current relationship.

The latter can be a particularly powerful way for each party to find common ground and reach a mediated solution.

The Mediator keeps confidential all matters revealed to her during each party's contact meeting. The parties can choose what he/she wishes to say to the other in the joint session. However, there may be occasions when a party specifically asks for certain information to be disclosed to the other party. This would inevitably need to occur in a 'shuttle' mediation.

## Joint Session

This will usually happen as a face to face session. It may be the first time that the parties have had the opportunity to really let the other know how they feel about their working relationship. At the beginning of the joint session, the Mediator will invite the parties to agree a set of ground rules for the conduct of the meeting, for example, that the parties will be courteous to each other. This will help create a neutral and safe environment, in which the parties can speak frankly to one another. The Mediator will ensure that these rules are complied with and intervene where necessary.

The parties will each be allowed the same amount of uninterrupted time during which they can tell each other how they feel about their current working relationship and, most importantly, be heard. The parties will then have time to discuss any differences and explore whether there is any common ground between them.

The Mediator will facilitate this discussion, and ensure it runs smoothly, by keeping the parties focussed on the goal: leaving the mediation with a plan which is going to improve their working relationship, and which will be sustainable.

The exact path the mediation will take is not something which can be predicted; it is a fluid process. The parties will remain in control of the negotiation process, as the Mediator may float ideas but does not impose solutions. At any time, a party may indicate that he/she wants 'time out' in the side room, or to stop the mediation process altogether.

Also, the Mediator may call a halt to the process, temporarily for a side meeting, or permanently, if:

- The situation is serious, and a formal grievance process should be followed.
- One party's behaviour is unacceptable, and there is no sign of improvement despite warnings.
- One party becomes too distressed to continue.
- There appears to be an impasse in relation to an issue.

Mediation may end in an agreement (verbal or written) between the parties, or there may be no agreement even where there has been no breakdown in the process. As the matter is confidential, it will be up to the parties to both agree who, if anyone, shall be informed of the outcome or content of the agreement.

If the parties would like their agreement recorded in writing, the Mediator will prepare this at the joint session, for immediate signature. The agreement is not legally binding but provides a useful reminder of how the parties intend to improve their relationship, which may include specific action points.

## Evaluation

In order to help us and the referring employer to evaluate the effectiveness of the mediation, we will ask the parties at the mediation whether they would like to give us feedback (e.g. telephone survey or completing a form), and when. Usually the parties will need time to reflect after what can be an emotionally charged process.