

Human Resources  
Goireasan Daonna

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# Mediation Guidance

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## Clàr-innse

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# Introduction

The Council's mediation process is designed to support managers and employees when resolving conflict in the workplace.

The aim of the guidance is to provide support to resolve issues as quickly as possible by bringing individuals together with a neutral third party to reach an understanding, settle the disagreement and agree solutions. It is important that signs of disputes are recognised early to avoid situations escalating further. Informal facilitated meetings can enable individuals to understand the issues at an early stage and reach a resolution. Mediation is available where the informal meeting does not achieve the desired outcome.

Mediation is a collaborative approach to resolve disagreements at work and is:

- voluntary
- confidential
- flexible.

Mediation can be used to resolve the following:

- bullying and harassment
- communication problems
- personality clashes
- relationship breakdowns.

Mediation is only considered a suitable option to resolve disagreements relating to workplace relationships and not contractual issues of pay or Terms and Conditions.

If an employee or manager feels that mediation might be appropriate, advice should be sought from HR.

# Guidance

## Definitions

### Facilitated Conversation

A facilitated conversation is where an independent person conducts a meeting early in the dispute between the aggrieved parties to ascertain the details and reach a resolution. This approach should be implemented promptly to prevent escalation.

### Mediation

This is a voluntary process where a structured meeting is scheduled with a trained and independent Mediator and the aggrieved parties. The process aims to create a safe and confidential space for those involved to find solutions that are acceptable to both parties. Mediation can be requested from HR if the informal facilitated meeting has not resolved the dispute. Representation or accompaniment is not appropriate during mediation, and this is recognised by the Trade Unions.

## Roles & Responsibilities

### Managers

It is the managers responsibility to:

- ensure early intervention and informal resolution
- seek further information to determine whether mediation is appropriate
- support employees to undertake mediation
- confirm that both parties agree to engage in mediation
- encourage the parties to consider possible outcomes and options to resolve the issue.

## HR

The **Senior HR Officer** will oversee the mediation procedure by:

- managing the appointment and training of Mediators
- arranging further training and co-ordinate support networks for Mediators as appropriate
- maintaining a confidential system to record the outcome of mediation sessions
- appointing impartial Mediators to specific cases.

**HR Officers** will act as the point of contact with the line manager to:

- support managers and employees through the process
- ensure mediation referral forms are completed by both parties and returned to HR
- contact the Senior HR Officer to appoint an impartial Mediator
- inform the manager and employees of who the Mediator is
- signpost employees to the Employee Assistance Programme for additional support
- support managers and employees following mediation.

## The Mediator

The Mediator is fully trained and completely impartial. This means they do not take sides. They are there to support those involved to find a solution they can all agree to. The Mediator will not be involved in any other processes involving the parties.

The Mediator will arrange and notify the parties of the date, time and venue for the mediation, ensuring:

- to offer at least 2 possible dates for the mediation to take place
- the appropriateness of the accommodation
- the availability of required facilities (toilets, refreshments, breakout space)

## Trade Unions

Trade Union representatives will encourage early resolution of issues through mediation and support employees throughout the process.



## Grievance Procedure

The Grievance and Resolution Policy and Guidance also refers to conciliation meetings as an effective tool to enable grievances to be resolved informally, or to rebuild relationships following a formal grievance being raised. Mediation is a possible option to help resolve workplace conflict following a grievance hearing.

## Confidentiality

Mediation is a confidential process. The parties will be bound by the principle of confidentiality, ensuring that no party discloses the matter to any other person.

The Mediator will agree with everyone involved whether mediation agreement information can be shared outside the mediation. If parties do not reach an agreement, anything that is said during the mediation must be kept confidential and cannot be used in future procedures.

## Escalation


Information will be kept confidential, with the exception that Mediators have a duty to report serious matters to the HR Manager.

Serious matters are defined as matters which could:

- constitute gross misconduct and thereby may lead to dismissal of the employee concerned
- seriously undermine public confidence in the integrity of the Council
- lead to serious criminal and/or civil proceedings against the Council; an employee of the Council; a Council Member and/or a supplier of goods or services to the Council.

Mediation is therefore only considered a suitable option to resolve disagreements relating to workplace relationships and not contractual issues of pay or Terms and Conditions.

If there is cause for concern, the Mediator may pause the mediation. If the HR Manager is advised of a serious matter that has arisen during mediation they will decide, in consultation with the Service ECO, whether it should be pursued through formal channels.



If it is decided that formal action is appropriate, the mediation process will stop immediately.

If it is decided that formal action is not appropriate, the mediation process will continue.

## **Mediation Process**

A full mediation session takes place in two parts. Firstly, the Mediator will meet with each person individually, which is then followed by the joint mediation meeting.

### **Individual Meetings**

The purpose of the individual meeting is for the Mediator to hear directly from each person what they feel has been happening in the working relationship, and to give them the opportunity to explore their issues and concerns. It helps to clarify the main issues involved, to see whether mediation is appropriate and to ensure both individuals are committed to find solutions and agree future actions through the mediation process.


### **Mediation Session**

The session will start with each person explaining what they feel has been happening in the working relationship. The Mediator will listen, summarise, clarify and ensure that each person has an equal opportunity to say what they need to. The Mediator will then help the individuals communicate to identify underlying issues and assist each employee to understand the other person's perspective. From understanding the issues, the Mediator will encourage both parties to identify solutions that will make things better. These solutions must be acceptable to both. Finally, using these solutions, the Mediator will draw up a confidential mediation agreement that is signed by both parties and the Mediator at the end of the session. A follow-up session can be arranged if both parties are willing and agreeable.

### **After Mediation**

A copy of the mediation agreement will be retained by the Mediator and both parties.

The Senior HR Officer will update the mediation register to record the outcome; however, no personal details will be recorded.



The Mediator will inform the manager whether a successful agreement has been reached, though specific details will not be shared with anyone unless both parties agree.

## **Follow Up Meeting**

A follow-up session can take place with the Mediator if agreed by all parties. The session will still be confidential, but it will not follow the formal mediation process. Sufficient time should be allowed between mediation and the follow-up meeting to enable the agreements to be embedded.

The meeting is an opportunity for parties to discuss and review agreements from the mediation and to discuss what has or has not gone well and why. This should inform discussion about how to prevent further issues arising.



## Quick Links

The Hyperlinks listed here will redirect you to the related guidance, letters, information, and relevant organisations mentioned in this policy.

<b>HR Microsite</b>	<a href="#">Click Here</a>
<b>Mediation Request Form</b>	<a href="#">Click Here</a>
<b>Grievance &amp; Resolution Policy</b>	<a href="#">Click Here</a>
<b>Grievance &amp; Resolution Guidance</b>	<a href="#">Click Here</a>
<b>Bullying &amp; Harassment Policy</b>	<a href="#">Click Here</a>
	<a href="#">Click Here</a>
	<a href="#">Click Here</a>
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