

# Human Resources

## MEDIATION

Written by	
Date Written	January 2009
Date for Review	
Version	1



South Yorkshire  
Fire & Rescue  
WORKING FOR A SAFER  
SOUTH YORKSHIRE

# MEDIATION POLICY

## INTRODUCTION

1. South Yorkshire Fire and Rescue (SYFR) is committed to encouraging harmonious working relationships between all employees. Inevitably situations will arise whereby working relationships, for whatever reason, become strained. SYFR is committed to prompt resolution of any issues. In most instances, conflict between colleagues can be resolved informally as part of normal day to day practice, without recourse to more formal procedures. Where however, resolution is not achieved, mediation may assist all parties in reaching a mutually agreeable outcome. Mediation is particularly effective prior to the instigation of, or during, the Grievance Procedure.
2. The new Employment Bill, due to be implemented in 2008/09, will impact upon the manner in which disputes in the workplace are resolved. As claims to Employment Tribunals have increased over the past 3-4 years, the Bill aims to introduce measures to prevent such claims, specifically by encouraging employers to address and resolve issues before escalation to the courts. Mediation is likely to be promoted as an important mechanism to resolve conflict in the workplace.
3. Best practice from a variety of organisations demonstrates that mediation offers many benefits; reducing the amount of formal proceedings, preventing Employment Tribunal claims, restoring working relationships etc. As a socially responsible employer, SYFR would like to ensure that any stress or discomfort arising from strained employment relationships is mitigated via implementing processes to support employees. Mediation is an effective tool in forging working relationships and empowering employees to find mutually agreeable outcomes.
4. Information on mediation can be sourced from the Human Resources (HR) function and the HR pages of the intranet.
5. As a member of the Dignity at Work Partnership<sup>1</sup>, SYFR is committed to promoting a positive working environment where the dignity and respect, to which all employees are entitled, is not undermined. No employee should be treated less favourably on the grounds of race, gender or gender reassignment, disability, sexual orientation, religion or spiritual belief, colour, nationality, national or ethnic origin, marital/parental status, family ties, trade union or political belief, hours worked, or any other reason, either directly or indirectly.

## WHAT IS MEDIATION?

6. Mediation is the process by which an independent third party assists parties in the resolution of workplace disputes to reach a mutually agreeable outcome.
7. Mediation aims to:
  - provide a way to deal with behaviour through constructive and efficient negotiations. These focus predominantly on the parties' needs and interests which subsequently broadens the search for options and alternative solutions

<sup>1</sup> The Dignity at Work Partnership is a partnership between the Government, Unite (the UK's largest union) and major public and private organisations. For further information on the Partnership, see [www.dignityatwork.org](http://www.dignityatwork.org)

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- 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
  - Restore and maintain the employment relationship.
8. Where all parties approach mediation in an open-minded, constructive way, it can prove to be extremely successful. 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.
9. Mediation will only work where both parties are willing to fully participate. Where one party is resistant to mediation, the process will not be pursued or enforced.
10. Successful mediation will lead to both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances.

### BENEFITS OF MEDIATION

11. The mediation process has multiple benefits to the employee and SYFR. It:
- Overcomes communication difficulties
  - Clarifies issues – allows problems to be raised confidentially and directly with involved parties
  - Focuses on the future
  - More cost efficient, less stressful and less time consuming than formal procedures, i.e. tribunals
  - Generates better and longer lasting solutions.
12. Mediation does not preclude the option of pursuing formal action so employees are not disadvantaged in any way by engaging in mediation in the first instance.

### GENERAL PRINCIPLES OF MEDIATION

13. Where there is conflict in working relationships, colleagues will be encouraged to consider mediation as a means of resolution. Managers should always initially offer this option to their staff whenever conflict arises.
14. HR can arrange for a trained mediator to liaise with any party considering mediation in order to discuss the process in more detail and answer any questions that an employee may have.

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15. The appointed mediator will be independent of both parties to ensure impartiality.
16. Mediation will be strictly confidential between the two parties and the mediator. Once resolution has been achieved, an agreement will be signed by both parties which may, if agreed, be shared with the line manager.
17. Given that mediation is designed to take the matter out of the normal arena for resolving conflict there will be no direct involvement from other parties (e.g. union representatives, management, other work colleagues, etc) during the mediation process other than in exceptional circumstances.
18. Opting for mediation does not take away an individual's right and access to grievance procedure (see Links with the Grievance Procedure, below).
19. Line managers will monitor the well being of both parties and, in conjunction with the HR function, a range of additional supportive measures to be introduced, where appropriate.

### RELATIONSHIP WITH THE GRIEVANCE PROCEDURE

20. Given the positive outcomes that can be achieved, individuals should seriously consider mediation prior to instigating a formal grievance.
21. Where mediation is opted for part way through the grievance procedure, the formal procedure will be temporarily suspended pending the outcome of the mediation.

### THE MEDIATION PROCESS

22. Once both parties have agreed to mediation, the manager will liaise with the HR function who will identify a suitable mediator. Wherever possible, consideration will be given to ensuring that any specific preferences of the parties are taken into account (e.g. mediator's job role, gender etc) and travelling distance between the mediator and parties. The Transactional HR Manager has final responsibility for appointing the mediator.
23. Both parties should indicate their willingness to proceed by signing an Agreement to Mediation (Appendix A).
24. All outcomes from the process will be 'binding in honour'. The resolutions do not have legal weighting however need to be upheld by both parties to ensure the process is effective and that issues do not re-occur.

#### Stage One – Pre-meeting

25. The mediator will meet both parties individually for the purpose of:
  - explaining the role of the mediator and the process of mediation, including confidentiality

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- highlighting that confidentiality will only be breached if issues of a criminal nature surface, at which point the meeting will stop and HR will be informed. The appropriate authority e.g. the Police may need to intervene
  - defining the core issues and identifying the ideal outcome expected by both parties.
26. The mediator may need to meet either or both parties again to clarify any further issues arising from stage one.
27. At the one-to-one stage, the employee can bring a Trade Union Representative or work colleague for support purposes only, if they wish to do so. Such representatives/colleagues will not be able to speak on behalf of the employee nor challenge the procedure. This, in no way, formalises the process and is offered as a support mechanism only. Confidentiality must be maintained by all parties involved.

### Stage Two – Face to Face Mediation

28. The mediator will arrange a suitable venue, where there will be no interruptions and confidentiality will be preserved. Ideally this will be at a mutually agreed location.

### Setting the Scene

29. The mediator will:
- Agree the agenda
  - Welcome both parties
  - Set the boundaries and ground rules in agreement with both parties
  - Explain and agree the process
  - Clarify and summarise the agreed areas of conflict.

### Exploring the Issues

30. 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
  - Identify any concerns about the issues

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- Encourage a change of focus from the past to the future
- Summarise areas of consensus and disagreement.

### Building Agreements

31. 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 and creating fall back arrangements
- Identifying the next steps if no agreement is reached.

### Closure and Follow Up

32. The Mediator will conclude as follows:

- 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 B)
- It will be agreed who retains copies (e.g. the manager may require a copy to monitor that any agreed action is followed through and maintained). Confidentiality will be respected
- Close the session, reasserting the need for confidentiality
- Arranging follow up (if necessary).

33. In the unlikely event that mediation does not achieve the desired outcome, the aggrieved officer may opt for the Grievance Procedure to be instigated, or resumed, as necessary. Given the confidential nature of the mediation process, where this is the case, papers relating to the mediation process will not be disclosed. HR will be updated on the final outcome of mediation (in terms of whether the conflict has been resolved).

## MONITORING AND EVALUATION

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34. Monthly statistical returns will be provided by mediators to the HR Manager for monitoring and evaluation purposes. No personal information will be recorded as part of this process.

***If you require any further guidance on this policy please contact the Human Resources Function.***

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### Appendix A

#### SYFR AGREEMENT TO MEDIATION

1. Both parties undertake to listen to each other's point of view.
2. Both parties undertake to be co-operative towards resolving the conflict.
3. Both parties agree to remain respectful towards each other.
4. Both parties acknowledge that the process is reliant on goodwill and commitment to acceptance in good faith.
5. Both parties agree to adhere to the mutually established ground rules at all times.
6. Both parties will ensure all discussions remain strictly confidential.

Name:.....

Date: .....

Signed: .....

Name:.....

Date: .....

Signed: .....

**MEDIATION POLICY**



Appendix B

**AGREEMENT REACHED THROUGH MEDIATION**

Name: .....

Name: .....

We, the undersigned, have agreed to:

Signed: .....

Signed: .....

Date. ....

Date. ....

In the presence of: .....

(Mediator)