

Workplace Mediation for the HR Profession



You are probably familiar with Human Resources Policies and Procedures based on the three step process for grievances and discipline issues which are well known to your employees and trade union representatives. You may be thinking why change something that has worked well in the past.

The statutory procedures were replaced on 6 April 2009 with a 45 point Acas code of practice, lifting the current legal requirements to deal with discipline and grievance issues in a fixed way. Instead, tribunals can increase any award made by up to 25% if they feel the code has not been followed.

Also, because employees do not need to submit a grievance any more before taking a case to the Employment Tribunal, there could be a few surprise claims. At a time of recession more people go to tribunal whether for redundancy selection or dismissal. So, what can you do to try to prevent this happening in your organisation?

The whole thrust of the Gibbons report (leading to the introduction of The Employment Act 2008) and of the new approach is very much about encouraging the resolution of work-place disputes at an early stage to ensure they do not end up in tribunals. This can be achieved by:

- Reviewing your HR policies and procedures to ensure they are fit for purpose in the light of the new code
- Work with staff representatives to ensure acceptance of any changes made
- Make sure employees know how the new systems work
- Ensure the person investigating a complaint is not the same person who conducts the hearing (See ADR Group's Independent Investigation Service)
- Ensure suspensions are kept to a minimum
- Consider incorporating mediation into your policies and procedures
- Greater emphasis on the use of third party mediation (See ADR Group Workplace Mediation Services)
- Ensure all line managers have informal mediation skills training to allow them to step in and attempt to resolve disputes at an early stage. (See ADR Group Workplace Mediation Training)

How can mediation help?

The benefits most frequently mentioned are improving relationships between employees, reducing and eliminating the stress involved in using more formal processes and reducing sickness absence.

There are also benefits in avoiding the costs of defending employment tribunal claims and reducing the number of formal grievances received.

An employment tribunal can take many months before a conclusion is reached and will be costly financially. Formal grievances can also mean senior managers are spending a

great deal of time carrying out investigations and writing up conclusions. Early dispute resolution or mediation can result in a speedy outcome in both of these situations.

What is mediation?

The Acas guide to discipline and grievances at work suggests that an independent third party or mediator can sometimes help resolve these issues.

Mediation is based on the principle of collaborative problem solving with the focus on the future and rebuilding relationships rather than apportioning blame.

The mediator helps the people in dispute to attempt to reach an agreement. Any agreement comes from the parties not the mediator. The mediator is not there to judge or to say one person is right and the other wrong. The mediator is in charge of the process of seeking to resolve the problem but not the outcome.

Mediators can be employees trained by an external mediation provider or they can be from an external mediation provider.

Mediation is:

- Informal
- Flexible
- Voluntary
- Confidential

A mediator seeks to provide an informal, speedy solution to workplace conflict and can be used at any stage in the conflict.

Mediation – strong support from employers

The results of a recent CIPD survey into workplace mediation suggest there is strong support from employers for the use of workplace mediation. The business benefits include retaining valuable employees and avoiding the cost of defending tribunal claims. Mediation can be seen as simply a better way of dealing with workplace conflict than other more formal processes and is a key element in the conflict resolution process.

For further information about mediation or a confidential discussion about how we may be able to help you or your organisation, please call us on +44 (0) 117 946 7180 or email us at workplace@adrgroup.co.uk