

# Mediation Works!



A practical guide to mediation for HR and business leaders

including a series of tried and tested toolboxes to help you become a peacemaker in your own organisation...

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“HR professionals now understand the business case for workplace mediation. This guide provides practical advice on how to implement it in your organisation.”

Mike Emmott,  
Employee Relations Adviser. CIPD



# INTRODUCTION

## A new approach to conflict management

Over the past twenty years or so, mediation has transformed from playing a minor role in our society to becoming a mainstream activity across many walks of life. From family breakdown to civil disputes, from prison reform to tackling bullying in schools, mediation is playing an ever bigger role in all of our lives. And now it is the turn of UK organisations to take advantage of all that mediation has to offer.

There is now increasing evidence from CIPD and other authoritative bodies such as BIS, CBI, TUC and Acas that mediation works. This paper provides expert guidance and several tried and tested toolboxes to help you to cut the cost of conflict and embed mediation into your organisation.

## The cost of conflict

Over recent years, increasing numbers of business leaders and HR professionals have expressed serious dissatisfaction with formal and legal remedies to workplace disputes. The costs of conflict can be extremely high – an estimated annual £33bn to UK business according to the CBI, taking up 20% of leadership time and resulting in 370 million days lost.

It is also evident from numerous surveys carried out by The TCM Group that unresolved conflict continues to be a serious problem for many UK businesses. Our research, coupled with over 10 years' experience in the field suggests that - from the boardroom to the shop floor - unresolved conflicts:

- undermine effectiveness and productivity;
- destabilise teams and create toxic workplaces;
- waste time, waste money, waste energy and they sap goodwill.

And many businesses now accept that more needs to be done. Recent research by the Centre for Effective Dispute Resolution (CEDR) shows that more than 60% of business leaders are concerned that their business is not effective at tackling challenging workplace issues.

## Mediation works!

Mediation is being used in numerous UK organisations to help resolve disputes speedily and effectively. Those organisations are now reporting significant

benefits for their managers, their employees and their customers.

Following detailed analysis into the impact of mediation, the Chartered Institute for Personnel and Development (CIPD) found that almost 60% of companies using mediation see a significant reduction in formal grievances and a reduction of employment tribunal claims by almost 50%<sup>1</sup>.

Mediators are trained to facilitate difficult conversations – they guide the parties to a constructive, mutually agreed solution, rather than making a judgment about who is right or wrong. Mediation is safe, non-confrontational and it provides a practical and highly effective remedy to time consuming workplace disputes.

## ABOUT THE AUTHOR

David Liddle Founder and Director - The TCM Group.

David has been mediating and training mediators for almost 20 years. He set up The TCM Group in 2001 and has worked with many hundreds of organisations to develop internal mediation schemes. David is passionate about the role of mediation as an empowering alternative to the traditionally adversarial and confrontational systems of dispute resolution and justice.

“ I have been on an exciting journey and for those companies and organisations who have connected with mediation, it is now a credible and important feature of their dispute resolution procedures. ”



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<sup>1</sup> CIPD mediation survey report 2008. Available to download from [www.cipd.co.uk](http://www.cipd.co.uk)

# CONFLICT AT WORK

**Let's be honest**, conflict is a dirty word. Time after time, when HR professionals and business leaders are asked to describe conflict at work, they depict vivid images of anger, fear and confrontation. And this is conflict at work right now - and it could be happening in an office only metres from where you are sitting reading this.



Yes, conflict has got a bad name and the reality is that it can be extremely destructive. However, there are a growing number of HR professionals and business leaders who believe that it is time to rewrite the books and give conflict a thorough makeover.

**Conflict at work is nothing new.** In fact, many managers accept that a certain level of conflict is healthy within their teams. Others, such as psychologist Bruce Tuckman suggest that conflict (storming) is a key factor during team development.<sup>2</sup> So what goes wrong and why does conflict become so damaging and difficult to manage?

## The nature of conflict

Firstly, it is important to recognise that there are, in fact, two types of conflict – good and bad conflict.

**CONFLICT COMES IN MANY SHAPES AND SIZES:**  
**BULLYING** Disagreement fight  
 Discrimination **GRIEVANCE**  
 harassment CONFRONTATION

**Type 1 conflict** (constructive conflict) is good conflict. Much like good fat (which builds cells, creates energy and is used to protect vital organs), type 1 conflict enables us to focus on our interests and it allows our needs to be met. It can strengthen relationships through dialogue and debate. Constructive conflict creates energy and it can be used to build cohesive, stronger relationships and teams.

**Type 2 conflict** (destructive conflict) is more like saturated fat. This type of conflict is damaging and harmful - it creates division, it puts up barriers, it produces toxic workplaces and it undermines our wellbeing. In most cases, it prevents our needs and our interests from being met which in turn generates a deep and profound sense of loss.

**At a psychological level**, unmet needs and loss feature heavily in destructive workplace conflict. Think about a dispute that you have worked with – what were the needs of the parties and what types of loss did the parties exhibit as a result of the conflict?

Need	Unmet need may result in:
Feeling valued	Loss of esteem and job satisfaction resulting in a loss of performance
Being heard and communicated with	Loss of confidence in themselves, their management and the business as a whole
Clear role/objectives	Confusion, loss of productivity and a loss of control
Safety (emotional and physical)	Loss of engagement and participation
System for resolving differences	Loss of face or motivation. In extreme cases - loss of job if conflicts escalate

**Managed in the wrong way**, real and legitimate differences between people can quickly spiral out of control, resulting in relationship and team breakdown. To resolve conflict effectively, it helps to take a positive approach where discussion is constructive and non-confrontational. As long as the parties listen carefully and explore feelings, issues and possible solutions properly, conflict can often be resolved effectively - transformed from destructive to constructive.

<sup>2</sup> See [www.businessballs.com](http://www.businessballs.com) for more details of Tuckman's four stages of team development

# TOOLBOX 1

## Quick conflict health check

This innovative conflict health check is specially designed by some of the top UK dispute resolution experts to help you assess your company's current approach to conflict and mediation.

Not all companies are alike and this quick conflict health check will help you to establish what type of organisation you are and what steps may be required to help you manage conflict better in the future.

**Instructions:** For each of the 15 statements, mark if you agree or disagree with the statement. The next page includes an answer grid, explanations and recommendations for next steps.

Statement	Agree	Disagree
1. My organisation includes mediation in our HR and ER policies (such as grievance, performance etc).	<input type="radio"/>	<input type="radio"/>
2. My organisation includes mediation in our employment contract.	<input type="radio"/>	<input type="radio"/>
3. Unresolved workplace conflict is a problem within my organisation.	<input type="radio"/>	<input type="radio"/>
4. Our HR team receive mediation training.	<input type="radio"/>	<input type="radio"/>
5. Our managers usually ignore or avoid dealing with conflict until it is too late.	<input type="radio"/>	<input type="radio"/>
6. Mutual respect and dignity at work are a part of our organisational culture.	<input type="radio"/>	<input type="radio"/>
7. In the past 12 months, we have commissioned an external mediator to help us resolve a workplace conflict.	<input type="radio"/>	<input type="radio"/>
8. We would like to improve the way that we manage workplace conflict.	<input type="radio"/>	<input type="radio"/>
9. We have lost good employees due to unresolved conflict.	<input type="radio"/>	<input type="radio"/>
10. In the past 12 months, we have seen an increase in the costs associated with conflict (such as investigating grievances and defending ET cases).	<input type="radio"/>	<input type="radio"/>
11. Staff stress/sickness is on the rise due to unresolved workplace conflict.	<input type="radio"/>	<input type="radio"/>
12. Important organisational change is hampered by disagreements and disputes.	<input type="radio"/>	<input type="radio"/>
13. We regularly review our grievances to identify patterns and opportunities for learning.	<input type="radio"/>	<input type="radio"/>
14. We don't measure the financial and the human impact of conflict.	<input type="radio"/>	<input type="radio"/>
15. We have a team of trained and accredited internal workplace mediators.	<input type="radio"/>	<input type="radio"/>

# ANALYSIS

## Quick conflict health check

Please circle the answers you agreed with in the table below. Then add up your answers. Each answer in the left hand column is worth 3 points. Answers in the right hand column are worth 1 point. An explanation of your company's conflict management approach is set out below using a traffic light sequence.

If you agreed with these questions, each answer is worth 3 points								If you agreed with these questions, each one is worth 1 point							
1	2	4	6	7	8	13	15	3	5	9	10	11	12	14	

Your total score: \_\_\_\_\_

### SCORES 0 – 11

Your organisation is experiencing the negative effects of type 2 conflict (see page 3 for more details). For those employees and managers experiencing or witnessing conflict, it is a potentially unhealthy and negative environment. Your business performance could be undermined and the atmosphere in some offices or departments may be tense and negative.

#### RECOMMENDATION FOR ACTION:

It's not too late to take the grief out of your grievances! Training your HR team and managers as mediators and peacemakers will deliver immediate results. Why not develop a grievance resolution procedure with more emphasis on resolution and mediation?

### SCORES 12 - 17

You are on the right track and you have some innovative systems in place for tackling workplace conflicts - these seem to be having a positive influence. However, some conflicts are not being responded to as quickly or effectively as they could be and this is causing your employees and managers to experience some of the negative and harmful effects.

#### RECOMMENDATION FOR ACTION:

Consider undertaking a detailed conflict audit to assess the real costs of conflict to your business. Establishing an internal mediation scheme could be a good investment. Training your line managers and supervisors in core mediation skills will ensure that more disputes are resolved early.

### SCORES 18 - 24

Well done, you appear to have a very positive working environment where virtually all workplace disputes are responded to in a positive and constructive manner. You have embraced mediation and formal grievance levels are likely to be relatively low. Your overall culture is one which embraces diversity and encourages people to talk openly with each other about their concerns and disagreements.

#### RECOMMENDATION FOR ACTION:

You have proven that it's good to talk. Have you considered using mediation in other business areas such as to resolve disputes with other businesses, with your suppliers, in your supply chain or with your customers or consumers? If you haven't done so already, now may be the right time to develop an internal mediation scheme.

# THE CONFLICT SPIRAL

## The lifecycle of a conflict

Having helped to resolve many hundreds of conflicts over the past 20 years, I have seen many examples of what people describe as 'conflict spiralling out of control'.

**But what exactly does that mean - what is the spiral of conflict and how does it spiral out of control?**

As already seen, there are numerous (and sometimes complex) causes of conflict in modern organisations. When the conditions are right, those conflicts can rapidly take hold and spiral out of control.

As the conflict begins to escalate, parties may blame one another and prepare to defend themselves against an impending aggressive attack - fight or flight.

The *fight or flight* response to conflict creates its own further stresses. As the brain prepares for a confrontation and possible harm, it releases the stressor hormones adrenaline and cortisol. These responses are driven by an almond-sized part of the brain called the amygdala. The amygdala drives our emotional reactions to various stimuli and it becomes particularly active at times of conflict.



In his 1996 book *Emotional Intelligence: Why It Can Matter More Than IQ*, Daniel Goleman uses the term amygdala hijack to describe emotional responses from people which are out of proportion with the actual threat because it has triggered a much more significant emotional response.<sup>3</sup>

**Below are some of the common symptoms which suggest that a conflict may be spiralling out of control:**

**Digging the trenches** The parties take ever hardening views of the other party. The language used by all sides becomes hostile, abrasive and polarised.

**The blame game** The parties blame each other for the problems. The finger of blame can also point in many other directions - managers and leaders (and occasionally even HR professionals) can be targeted.

**Safety in numbers** The parties form camps and seek alliances and allegiances. Other colleagues may feel trapped and forced to take sides.

**Actions speak louder than words** The parties stop communicating directly with each other or when they do it can be negative and destructive.

**Attack and counter attack** The parties exchange blows, perhaps not physically but via email or verbal confrontations. Team meetings and other gatherings become tense - attendance and participation falls. The office atmosphere can become quite toxic at this stage.

**The explosion (or implosion)** At this stage something may be said or done that causes the situation to explode and the parties lose control. Losing sight of their needs and goals, the parties are more concerned about causing maximum damage to the other side. Real damage can be done to the individual, the team and the business as a whole.

**Picking up the pieces** The business still has to function and often it is left to someone from outside the team to try to make sense of the situation and get back on track. For anyone who has performed this role, it is a lot harder than it may seem. With the benefit of hindsight, colleagues and leaders utter those immortal words - **why was something not done earlier to resolve the situation?**

<sup>3</sup> Emotional Intelligence: Why It Can Matter More Than IQ, Goleman D (1996)

# BREAKING THE SPIRAL OF CONFLICT

Listed below are a number of useful strategies to help you manage each stage of the conflict and prevent it from spiralling to the next stage.

## Unmet needs

- Build rapport. Give the parties what I call 'a good listening to'. Let them talk and encourage them with supportive and engaging body language – maintain eye contact, smile and look interested.
- Ask open questions - avoid closing the parties down.
- Avoid making either party defensive.
- Ask the parties specifically what they need going forward to resolve the conflict and check in with them how they will feel once these needs are fulfilled.

## Loss

- Allow the parties time to *vent their concerns*. Listen without interrupting or judging. Not only does this provide a therapeutic benefit – in many cases, a solution seems to magically appear from the ether.
- It helps to empathise with both parties. Demonstrating that their feelings are important and valid whilst avoiding taking sides will build their esteem and confidence.
- The stresses and the anxiety feel very real but make the parties aware that this is a normal reaction to conflict and it can be resolved if the parties want it to be – check that they want a resolution.

## Emotional and psychological responses

- At this stage of the conflict, it can be easy to judge one or both parties – try to avoid falling into this trap and ensure that you *remain impartial and objective*. Any judgments that you make are likely to be wrong and may inflame the situation further.
- The parties may lose confidence in themselves of reaching a positive outcome. Now is an opportunity to *reframe* their negative mindset with a 'can do' approach. Your ability to *influence* positively is important and will help build confidence in you and the potential of a resolution.

## A.I.R. (actions, interactions, reactions)

- *Separate the person from the problem* – making it personal will make it worse.
- *Separate the facts and the feelings from the perceptions*. The parties may be acting on perceptions or prejudicial views that they hold of the other; use your questioning skills to separate facts, feelings and perceptions.

## Destructive behaviours

- Illicit the *intentions* from each party. Even the most destructive behaviours often start out with a positive intention.
- Offer *alternatives* which enable your needs and goals to be met.
- Adopt a highly effective process called *Non-Violent Communication*<sup>4</sup> to encourage the parties to open up and reflect on their own, and each other's behaviours, Breaking the spiral of conflict

## THE FOUR STAGES OF NON-VIOLENT COMMUNICATION (NVC)

1. Describe your **OBSERVATIONS**, without blame.
2. Describe your **FEELINGS** related to the observation.
3. Explain what you **NEED**.
4. Make a **REQUEST** (not a demand) to the other person.

<sup>4</sup> see [www.cnvc.org](http://www.cnvc.org) for more details

# TOOLBOX 2

## Cost of conflict indicator™

This toolbox will help you to get a grip on the current costs of conflict to your organisation.

The data that you collect will provide three important benefits:

1. By measuring the real cost of conflict to your organisation, you will be able to develop your business case for mediation. The data will help you secure buy-in from key stakeholders and influence key decision makers.
2. You will be able to allocate resources effectively and will identify any potential conflict hotspots within your business.
3. The data will provide a baseline measure against which you can assess the return on investment on any subsequent dispute resolution or mediation system. I call this the return on mediation (ROM)



## MEASURING THE REAL COST OF CONFLICT TO YOUR BUSINESS

### Step 1

Identify three to five grievances or employee complaints that have concluded in the past 24 - 48 months. It is important that you have detailed records for each dispute that can be analysed and tracked from the start of the dispute to its resolution.

### Step 2

Identify each of the key stakeholders and the different stages of the conflict. See the table on page 5 for an example.

### Step 3

Allocate a cost per day to each stakeholder.

This can be calculated as follows:

- To calculate the day rate, divide the gross salary by 260 (the number of working days in the year assuming the employee is full time)

**gross salary/260 = day rate (£)**

### Step 4

Run the audit on three to five cases and divide your total figure by the number of disputes that you analysed. This gives you a mean cost of conflict for your business. If you wish to isolate specific types of conflicts, it is possible to calculate the costs of bullying, discrimination and performance management disputes in this way also.

### Step 5

The TCM Group can undertake a further assessment of the intangible cost of conflict to your business – the human cost. Our team of conflict management experts collect data through a series of interviews and focus groups. The data is then fed back in a confidential conflict report which can be used to support the data collected during the conflict audit.

# TOOLBOX 2 CONTINUED...

## Cost of conflict indicator™

The cost of conflict indicator™ is designed to help you to capture data during your conflict audit. The headings in each column can be modified to suit your own needs and circumstances.

For assistance completing your conflict audit, contact The TCM Group on 020 7404 7011 or visit our website [www.thetcmgroup.com](http://www.thetcmgroup.com). This toolbox is available as an MSExcel file from the TCM Group<sup>5</sup>

Stakeholder	Cost per day	Informal resolution	Investigation	Hearing	Appeal	Tribunal (incl legal fees)	Absenteeism & sickness
		no. of days	no. of days	no. of days	no. of days	no. of days	no. of days
HR person 1							
HR person 2							
HR person 3							
Party 1							
Party 2							
Party 3							
Parties' rep A							
Parties' rep B							
Manager a							
Manager b							
Witness X							
Witness Y							
Investigator (Internal)							
Lawyer/Legal Representative							
Barrister/Counsel							
Other							
<b>TOTAL</b>							

**TOTAL COST OF CONFLICT**

<sup>5</sup> contact TCM on 020 7404 7011 or email [info@thetcmgroup.com](mailto:info@thetcmgroup.com)

# A DEFINITION OF MEDIATION

**Mediation is a process of dispute resolution whereby a neutral third party is invited to intervene in a workplace situation to assist with the constructive resolution of a specific dispute.**



**Mediation is time limited** (typically lasting one day). The mediator creates the conditions for dialogue by facilitating a safe environment where all parties can communicate and work towards the restoration of an effective working relationship.

**In doing so**, mediators provide a structured process which encourages all parties to identify, consider and discuss their past, current and future interests, needs and goals.

Mediators encourage and facilitate open and honest dialogue between the parties - an approach which often leads to increased awareness, understanding and empathy.

The outcome of mediation is based on self-determination, i.e. the parties, not the mediators, generate, evaluate and agree the outcomes.

**Mediation** gives all parties access to a fair and equitable form of dispute resolution which encourages sustainable, realistic and shared 'win-win' outcomes.

## THE KEY FEATURES OF MEDIATION

- Mediation is voluntary. Parties cannot and should not be forced to mediate. However, it is reasonable for employers to promote mediation widely and to expect due consideration of mediation during the grievance process.
- Mediation is confidential. Neither the parties nor the mediator disclose what was said during the mediation afterwards. Notes from mediations are destroyed and parties sign a confidentiality agreement.
- Mediation is safe. The mediator creates a series of ground rules and controls the process with great care and sensitivity.
- Mediation is solution focused. Mediation could be mistaken by some as a cosy chat. It is not. Mediation allows difficult issues to be aired and strong feelings to be vented. Mediators help the parties to seek a new understanding and a new way of working.
- Mediation works. Unlike many dispute resolution procedures, mediation generates outcomes that the parties themselves identify and agree to. It is empowering and evidence suggests that mediation outcomes are more sustainable than those imposed on the parties.



# THE EVIDENCE THAT MEDIATION WORKS

This section of **Mediation Works!** contains a series of accounts from senior managers and decision makers from organisations across the UK.



According to Dr. Michael Peters, Head of the British Medical Association's Doctors for Doctors Unit:

*“In my work supporting doctors in difficulty, I feel that mediation is an excellent route to resolving conflicts that allows all parties to be winners. This is especially important in the increasingly stressful environment in which doctors find themselves today.”*

Teresa Jennings, Consultant Clinical Psychologist in Occupational Health at Northumbria Healthcare NHS Foundation Trust, also describes the highly pressured and changing environment in the healthcare sector, where stress can lead to breakdown in communication and relationships. She says:

*“From my experience, mediation offers many benefits: it offers a viable alternative to formal dispute procedures which are costly, time consuming and stressful for all concerned; it helps to normalise the experience of conflict in highly pressured healthcare settings where relationships can get strained; and it improves people management and optimises performance in teams. We have seen a culture change – mediation is being used as a first port of call where there are problems with conflict or harassment.”*

The benefits of mediation can be felt across organisations in every sector. According to Chris McCoy from Visit Scotland:

*“The benefits of mediation to Visit Scotland are numerous – swift resolution, reduced costs, valuing employees and supporting HR managers to do their jobs. Not to mention our reputation – any cases that are escalated to an Employment Tribunal become a burden to the organisation, both in terms of cost, PR and public image. Visit Scotland's business objective is to promote Scotland not only to the UK market, but across the world. We have a very professional team but from time to time things can inevitably go wrong. A mediation team provides an effective solution to getting things right, and letting us concentrate on our primary objective of selling Scotland as a place to come on holiday.”*

In complex organisations such as local authorities, mediation can provide a simple route for resolving conflict. Gail Simpson, Employee Relations Consultant at City of London Corporation, says:

*“Before TCM helped us to set up our mediation service we had a very skeletal conflict resolution service. It couldn't adequately meet the case work that was arising in the organisation. Mediation has helped us to cope with the volume and complexity of these cases.”*

Many Higher Education Institutions have also seen the advantages of embedding mediation into their policies, procedures and practices. Mary Siddall, Senior Legal Advisor at the University of Southampton, says:

*“Like many large organisations, we have a lot of staff complaints, disputes and conflict in the workplace which are very draining for everyone who becomes involved. Setting up our mediation service has given us a completely different option for managing that conflict.”*

All of the above organisations have worked with TCM to train mediators and/or to set up an internal mediation scheme.

# THE ROLE OF THE MEDIATOR

The mediator meets each party separately and listens carefully to the parties' needs. The mediator helps the parties to identify the root cause of their conflict (this is rarely what the parties thought it was when they first met the mediator).

The mediator then creates the conditions for the parties to communicate their feelings, their needs and their goals in a safe and supportive environment – the joint meeting.



Mediators transform conflict from type 1 to type 2. From destructive to constructive conflict. Mediators create new possibilities and new opportunities. Mediators don't paper over the cracks or create a cosy consensus, they facilitate adult-to-adult dialogue and debate. Ultimately, mediators help the parties to reach a new level of understanding. And it works. Even in the most hardened, the most polarised, the most intransigent of disputes – mediation works!

## The mediator's role is:

- To provide confidential, impartial and non-judgmental support to all parties in dispute.
- To promote an early commitment to the mediation process from all parties.
- To foster a safe and constructive environment where the two or more parties can engage in open and honest dialogue as a means of resolving their differences.
- To encourage participants to shift away from their adopted positions by taking account of their personal interests and their underlying needs.
- To provide full and equal opportunities for participants to consider, and describe, the causes and impacts of conflict upon themselves and each other.
- To engage all parties equitably in the mediation process and ensure that all stages of mediation are managed in a safe and controlled manner.
- To help all parties explore all of the issues in full and support participants as they generate and evaluate a variety of opportunities for future working.
- To support the parties to create a consensual and win/win outcome.
- To provide support to the parties after mediation concludes. TCM has developed a model called *constructive conflict coaching™* which is available to all parties for up to a year after mediation concludes.

## The FAIR mediation model™

FAIR mediation™ is the one of the most effective mediation models available to UK business. The FAIR model was designed specifically for resolving business, workplace and consumer disputes. TCM mediators and TCM accredited internal mediators secure successful outcomes in over 90% of disputes:

**F**acilitate  
**A**ppreciate  
**I**nnovate  
**R**esolve

# THE FAIR MEDIATION™ PROCESS

Constructive conflict resolution does not require a degree in quantum physics. It is the application of common sense and the chances are that you use mediation skills more often than you may think:

- At the breakfast table when there is an argument before school about which breakfast cereal to have.
- At the pub with your friends when there is a heated disagreement.
- With your neighbours when their guests at a summer BBQ are getting a bit rowdy.
- Addressing poor performance with a member of your team.

Nevertheless, mystery surrounds the mediation process, perhaps because it takes place behind closed doors. Unless you are a mediator or you have been a participant in the process, mediation may seem a little daunting and unfamiliar. This graphic sets out a typical FAIR mediation (lasting one full day) from start to finish. It explains each of the key stages in detail.



- The mediator receives a completed request for mediation (referral). This provides basic information about the dispute.
- The mediator speaks to each party on the phone to explain the process and to prepare the parties for the mediation.
- All parties sign a pre-mediation agreement including the confidentiality clause.

## Initial preparation

- The mediator meets each party separately. The first meeting lasts for an hour and is a chance for the parties to set out the narrative of the conflict.
- The mediator listens actively and uses their skills and experience to identify the root cause and the impact of the conflict.
- At a shorter second meeting the mediator prepares each party for the joint mediation meeting.

## The pre mediation meeting



- The mediator welcomes the parties to the mediation session and puts them at ease.
- The mediator encourages openness, honesty and respect at all times.
- The parties speak uninterrupted and listen carefully – this is a critical exchange of information and it allows issues to be aired that may previously have been hidden under the surface.
- The parties enter into an exchange of questions and ideas.
- The mediator may use short breaks but the majority of the work is done around the table.

## The joint mediation meeting



- The final stage of the joint meeting is about problem solving.
- The parties identify a series of options and remedies.
- The mediator helps the parties to craft a solution which meets their mutual needs and interests.
- The agreement is recorded in an action plan.
- The plan is signed and a dispute resolution clause is agreed which equips the parties should further problems arise.
- The mediator will remain in contact with the parties for up to 12 months after mediation concludes to monitor progress and provide ongoing support as required.

## Reaching resolution



# TOOLBOX 3

## Embedding mediation into your organisation

This toolbox includes a useful checklist to assist you in raising the profile of mediation in your business. In doing so, you will begin to embed mediation into your culture and ultimately you will ensure that more and more of your employees develop the mindset to mediate.

Mediation works in almost all forms of workplace disputes from the seemingly minor to the extremely serious. There is, however, one key factor that has a significant impact in almost every case. That factor is the parties' willingness to engage freely in mediation. The more that organisations can do to make mediation a normal, every day business activity, the more likelihood those organisations have of seeing mediation flourish.

### 10 SIMPLE STEPS TO HELP YOU EMBED MEDIATION

1. Choose a mediation partner who can work with you to embed mediation into your business - The TCM Group is a trusted partner to hundreds of UK companies. It is not an activity that can be taken lightly and having an expert partner working with you will help you to avoid many of the common pitfalls.
2. Promote mediation in your values statement and refer to it in your recruitment documents. Mediation can assist you to become an employer of choice.
3. Recruit, select and train a team of internal mediators to an accredited standard such as the OCN accredited National Certificate in Workplace Mediation.
4. Make specific mentions of mediation in your employment contracts, staff handbooks and HR policies.
5. Rename your grievance policy to a 'grievance resolution policy'. This is a simple change and it puts resolution literally at the centre of your policy.
6. Engage fully with your union and staff side representatives to ensure that they support mediation and feel ownership of this new approach. They will be more supportive of mediation with their members as a result.
7. Train your managers to be peacemakers in their teams - TCM delivers a range of short courses for managers and HR – contact us for more information.
8. Secure senior management buy-in to mediation – a signature and foreword in your mediation leaflet from your MD, CFO, CEO or COO can add real credibility to your approach.
9. Ensure that internal investigators, disciplinary panels and appeals panels are aware of mediation and are authorised to refer cases to mediation.
10. Celebrate your new internal mediation scheme and let everyone know that this is the direction that your business is travelling in. The more people who share your vision and come on board, the more sustainable and credible your new approach will be.

“Mediation can be seen as simply a better way of dealing with workplace conflict than other, more formal processes ... importantly, mediation can also contribute to building an organisational culture that focuses on managing and developing people. It is seen as a means of improving relationships between colleagues and can offer a solid basis for sustainable high-performance working.”

Conclusion from the CIPD Workplace Mediation Survey (2008)



# THE BENEFITS OF MEDIATION

There are considerable benefits to using mediation. For many organisations, the most significant benefits come from developing a workplace mediation scheme. Internal mediation schemes offer some of the greatest benefits to employers and employees.

BT established a pilot mediation scheme in 2009 and, according to Carol Russell, Head of Employee Relations at BT Retail:

“Over the past two years, mediation has made a significant contribution to our business. By working with TCM to train a team of internal mediators, we have already cut the cost of conflict by many hundreds of thousands of pounds.

*The satisfaction rate amongst employees who enter mediation is far greater than any other ER process I have encountered. I was a strong advocate of making mediation more widely available across the BT Group and I am glad that, with TCM's guidance and expert support, mediation is now available to employees across the entire group.*”



## THE FIVE KEY REASONS WHY COMPANIES LIKE BT ESTABLISH INTERNAL MEDIATION SCHEMES

- 1 They are building on their commitment to create an organisation where people are able to work with dignity and respect.
- 2 Their organisation will have access to fully accredited workplace mediators who understand the unique nature of their organisation - its values, cultures and structures.
- 3 Their staff will work in an environment where they can be confident that workplace conflicts will be resolved effectively and speedily.
- 4 Their leaders feel well supported in the knowledge that conflict is taken seriously and resolved quickly thereby improving performance and productivity.
- 5 Their organisation will develop a culture and a reputation as a place where workplace conflicts are managed positively and resolved constructively.

## AND HERE ARE SIX OF THE MAJOR BENEFITS OF MEDIATION

1. Mediation places responsibility for the resolution of a dispute directly with the parties.
2. Mediation creates a safe place for all sides to have their say and to be heard.
3. Mediation stops disputes escalating out of control.
4. Mediation reduces the stress and anxiety commonly associated with conflict.
5. Mediation cuts the cost of conflict and reduces the risk of litigation.
6. Mediation contributes to a more harmonious and productive working environment.

# ABOUT THE TCM GROUP

The TCM Group was one of the first specialist business, workplace and consumer mediation companies to be established in the UK. Over the past 10 years we have secured an unrivalled position as a trusted partner to a growing number of UK companies.

Our client list is impressive, our track record is second to none and our reputation is our greatest strength. People come to us because they know that they can trust us and rely on us. And they know that our team of mediators and trainers have the skills, the depth of knowledge and the experience to deliver outstanding results.

- The TCM Group was established in June 2001.
- We are a leading provider of business, workplace and consumer mediation services.
- We employ nine full time dispute resolution professionals supported by a team of expert consultants.
- Our mediators are world class and achieve consistently high outcomes with over 93% of mediation cases reaching a signed agreement.
- We have established over 100 internal mediation schemes in the past 10 years.
- We have trained in excess of 1000 trained and accredited mediators in the past 10 years.
- The FAIR mediation model™ was successful in over 600 workplace mediations during 2010.
- The TCM group are a recognised thought leader in the fields of dispute resolution and mediation. We advise national bodies, employers' organisations and UK Government on the role of mediation and alternative dispute resolution (ADR) practices.
- We established the Professional Mediators' Association (PMA) in 2007. The PMA delivers regular CPD for its members, and members subscribe to strict practice standards. The PMA has over 1000 members – and it is growing rapidly.
- Visit us at [www.thetcmgroup.com](http://www.thetcmgroup.com)

## What people say...

“David and his team were invaluable in assisting Arcadia to set up our internal mediation service. By focusing on the needs and culture of our business they developed a training programme for internal mediators that was relevant to our company and fully focused on their skills' development.”

Paul Forrest,  
Head of Employee Relations,  
Arcadia Group Limited.

▲ Arcadia Group plc

## SOME OF OUR RECENT CLIENTS INCLUDE:



# THE SERVICES THAT TCM OFFERS

TCM designs and delivers a comprehensive portfolio of mediation, conflict management and well-being services to our clients.



## THE TCM MEDIATION SUITE

*A market leading portfolio of professional mediation and dispute resolution services:*

- Setting up an internal mediation scheme
- Providing external, independent mediators in workplace disputes and grievances
- Negotiating and mediating compromise agreements
- Mediating team and collective disputes
- Pre-claim conciliation and pre-claim mediation services
- Civil and commercial mediation services
- Small claim (up to £15,000) and small business mediation services

## THE TCM CONFLICT MANAGEMENT SUITE

*A holistic package of conflict management services to help you prevent, resolve and transform conflict at work:*

- Undertaking conflict audits and developing conflict management strategies
- Delivering high quality workplace investigations
- Independent chairing of workplace appeals and hearings
- Developing dignity at work, fair treatment, fairness at work or related HR and ER policies
- Expert neutral evaluations of complex workplace disputes (harassment, bullying and discrimination)
- Conflict coaching
- Managing change and transformation

## THE TCM TRAINING SUITE

*An extensive programme of progressive and innovative courses designed and delivered by the UK experts:*

- Accredited mediation training for internal mediators. This training leads to the award of the UK's flagship qualification – The National Certificate in Workplace Mediation™ (5 or 6 days) OCN accredited
- Practical mediation skills for managers (2 days) ILM accredited
- Practical investigation skills (1 or 2 days) ILM accredited
- Core mediation skills (1 day)
- Managing positive conversations (1 day)
- Handling complaints (1 day)
- Managing strong emotions (1 day)
- HR as mediator and peacemaker (1 day)
- Employee engagement best practice for HR and managers (1 day)
- Managing stress, absence and presenteeism (1 day)

## THE TCM WELL-BEING SUITE

*Helping companies to look after their most important assets:*

- Stress and wellbeing audits
- Developing stress and wellbeing strategies
- Staff surveys
- Absence management and mental health support and training
- Coaching and counselling services plus training for managers
- Occupational health services and EAP support
- Designing employee engagement initiatives

# FEEDBACK AND INFORMATION REQUEST FORM

To help us as we develop further dispute resolution guides, please complete this short feedback form and return it to: **The TCM Group**, 1st Floor New House, 67-68 Hatton Garden, London, EC1N 8JY

Alternately, please fax your feedback to **020 7404 7012** or email your comments to [david.liddle@thetcmgroup.com](mailto:david.liddle@thetcmgroup.com)

	Yes	No	Maybe	Do you have any additional comments?
Overall, was this guide useful?				
Was it relevant to your needs?				
Was the guide easy to use?				
Would you recommend the guide to a friend or colleague?				

**Do you require further information about any of the following TCM services:**

Setting up an internal mediation scheme.				
Resolving a current dispute or grievance at work.				
Mediation training for managers or HR.				
Workplace investigation services or training.				

Use this space for any additional comments

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**Please enter your details below**

Your name

Your company name

Address

Email

Phone

Other relevant information



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