

# Talking it over

The advent of the UK postal strike in recent months has brought home to UK organisations just how crippling – and expensive – breakdowns in relationships with employees can be.

Indeed, the costs – both direct and indirect – of dealing with disputes is one that businesses have been aware of for some time. Managing conflict is big news and should be viewed in the same way as major developments such as the management of supply chain and improvements in customer service in the 1990s. These developments were bolstered by a robust business case, too. Unfortunately, few organisations offer training on topics such as conflict management and managing difficult conversations.

So it was a welcome change when, in April 2009, the Government introduced new legislation that would help reduce costs, save management time and build better relationships in the workplace. One of the key measures in this legislation was the introduction of a new Advisory, Conciliation and Arbitration Service (ACAS) code of practice. At the heart of the new code is the principle that organisations should encourage colleagues and to have conversations early, when it seems as if relationships are about to go awry. Refreshingly, the new code introduces the concept of a mediator to places of work.

## WHAT IS MEDIATION?

Mediation is a process that brings parties with a dispute together to discuss their differences. As part of the process, a neutral independent third party works to allow parties to say what they want and why they want it. This person might be internal or external to the organisation, and should only be considered once an informal discussion has taken place between the two or more individuals.

Mediation is based on the principle of working with interests rather than power and/or rights. It has been practised in the UK for the last 25 years or so, but has only recently come to the attention of a mass audience. Mediation works on a platform of five principles:

- it is confidential;
- it is without prejudice;
- the mediator is neutral and impartial;
- it is a voluntary process; and

- the discussions are non-binding (up until the point of agreement).

Recent research indicates that mediation has a success rate in excess of 90 per cent. There are few organisational processes that can match this. Most mediation sessions are completed within a day – in fact, it is not unheard of for a dispute that has been rumbling on for years to be settled in one day through mediation.

Indeed, the case studies opposite highlights several situations in which mediation has been central to reaching a solution.

## WHAT CAN YOU DO?

To respond to the benefits that mediation and preventative people solutions can bring, organisations need to take action.

First, you need to establish the business case for your organisation. This could be done by highlighting two or three key measures such as legal fees, employee turnover and sickness or absence. Identify how mediation could save money or improve productivity.

It may be worth selecting an appropriate 'test case' for mediation, which

The Post Office's recent trials with its workforce has only highlighted the damage that a breakdown in relations can cause. **Clive Lewis** explains how using mediation effectively can avoid situations like these.

hopefully will settle. It should then be possible to outline the benefits of mediation following the case, without the need to refer to the specifics.

The next step is to get buy-in by speaking to key colleagues. These could include the HR director, financial director and the chief executive. If you can, select a mediation and conflict resolution ‘champion’ from this group. Training colleagues to become accredited mediators is also a good idea – wherever possible, select those who demonstrate good people skills such as listening and teamwork. For maximum impact, select people from various parts of the organisation. They might include HR professionals, in-house legal, trade union representatives and line managers.

The ideal aim would be to introduce an organisation-wide mediation scheme: communicate the availability of the service

widely across the organisation. You should also review your organisation’s policies and procedures, and introduce mediation clauses to company handbooks, policies and contracts. Consider doing this for employees, temporary staff and commercial contracts. It may even be worth carrying out an overall review of the HR framework, with the aim of introducing a preventative and remedial approach as part of the overall HR strategy.

Of course, an in-house scheme may not be right for all organisations – and even those that do have their own scheme may need to use an external mediator from time to time. Therefore, it is also wise to partner with an external mediation provider. There is a list of bona-fide mediation providers on the Government-sponsored website, [www.cmcregistered.org](http://www.cmcregistered.org), and the Civil Mediation Council is working with the Government to

ensure that good practice remains paramount. Perhaps the key mistake that is made concerning mediation could be that it is a soft and fluffy HR ‘fad’. Nothing could be further from the truth. Mediation is hard work for all involved, and it would be more accurate to describe it as a commercial tool. The flexibility of mediation means that it can be used for individual, team, functional and company-to-company disputes – and organisations stand to benefit in terms of lower legal fees and better productivity if mediation is used effectively.

**ABOUT THE AUTHOR**

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**Realising savings**

**EAST SUSSEX COUNTY COUNCIL** introduced an in-house mediation scheme 12 months ago.

A cross-functional project team was established and Globis provided the mediation training to a team of 16, including people from HR, trade union representatives, line managers and in-house legal. The project team developed a mediation process, revised all relevant employment policies and led the process to agree a standard contract for inclusion in all contract terms. The organisation also designed and implemented a communications plan to inform its 18,000 employees of the service.

One year on, the organisation has been delighted to be able to report productivity savings of £500,000 as a result of introducing mediation. 100 per cent of the 34 mediated cases have been successfully resolved, and a number of employees also returned back to work after long-term sick leave following the mediated sessions. The return on investment for the training was paid back within the first month of the service going live.

**Back from the brink**

**ELIZABETH WAS EMPLOYED** as Head of Public Relations in a well-known UK-based organisation. She had been with the company for five years before a new chief executive arrived – and the new chief executive wanted to make changes quickly. Elizabeth’s role was one of the ones targeted for change.

The chief executive brought in some consultants whose remit clashed with Elizabeth’s role. Elizabeth attempted to have a chat with the chief executive about it but her eagerness to talk was rejected. She soon became frustrated, stressed then depressed. She raised a grievance, shortly before going off sick. She lost lots of weight, her skin became flaky and her hair began to fall out. She took six months off work. When her sick pay ran out she attempted to come back to work but found it to be too difficult. She resigned and lodged a tribunal claim.

Two months before the tribunal date, HR arranged for a mediated session. Elizabeth finally got the chance to do what she had been asking for from the beginning – speak to her boss. The mediation session lasted one day, and was fraught with difficulties: after all, nearly a year’s worth of emotions were played out during the day. However, settlement was reached, and the resolution included a payment to Elizabeth, an agreed reference and internal announcement.

For a relatively small investment the mediation wrapped up all the issues associated with the dispute. In contrast, the legal fees related to the claim had cost nearly £40,000 until that point. Elizabeth was able to put the episode behind her, and concentrate on getting better. The chief executive was able to devote time to more productive matters, while learning from the mistakes of the past.

**It’s your turn to make the tea**

**JACKIE AND HER COLLEAGUE PATRICIA** both worked in the finance department of a large organisation in the private sector. Patricia had been with the company for 15 years and Patricia for two, and they shared an office. Patricia used to report to Jackie until they fell out over working arrangements.

Amongst other things, the fall-out included a disagreement over tea- and coffee-making and occasional working from home arrangements. Jackie had recently returned from a lengthy period of sick leave, which she linked to the dispute. When the fall-out happened, Patricia moved into the office next door and refused to report to Jackie. Part of the impact was that they refused to do parts of each other’s jobs, which began to affect customer service. They both ended up reporting to the head of finance.

The Finance Director arranged for the dispute to be mediated. Initially, both told the mediator that they would not be seen in the same room together. Patricia attended the mediation weighed down by files of paperwork that she said outlined the injustice against her. The mediator built enough trust for them to eventually have a face-to-face meeting. The joint session was uncomfortable, and many ‘home truths’ were expressed. As the session progressed, they both shared personal stories which were previously unknown to each other. Rapport began to be built between them again.

The head of finance and finance director later joined the session to discuss how roles needed to be scoped more clearly. The head of finance also agreed to hold more on-to-one and team meetings. A team meeting hadn’t been held for the previous 18 months. The discussion, which led to clarity of job roles, allowed Jackie and Patricia to apologise to each other and agree to put the past behind them. They also agreed to revert back to the previous work arrangements.