



Mediation Scheme

Guidelines and Procedures

March 2008



Brent Council working in partnership with TCM

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1. Introduction

The council's Mediation Scheme is designed to support managers and employees when dealing with conflict or difficult situations at work.

Because conflict at work is a reality and can damage business performance by reducing levels of employee engagement the council recognises the importance and benefits of mediation in the work place. It can be a very effective tool when used to address people management issues both within and outside of council procedures. It can offer individuals the encouragement needed to find a solution to disagreements and disputes.

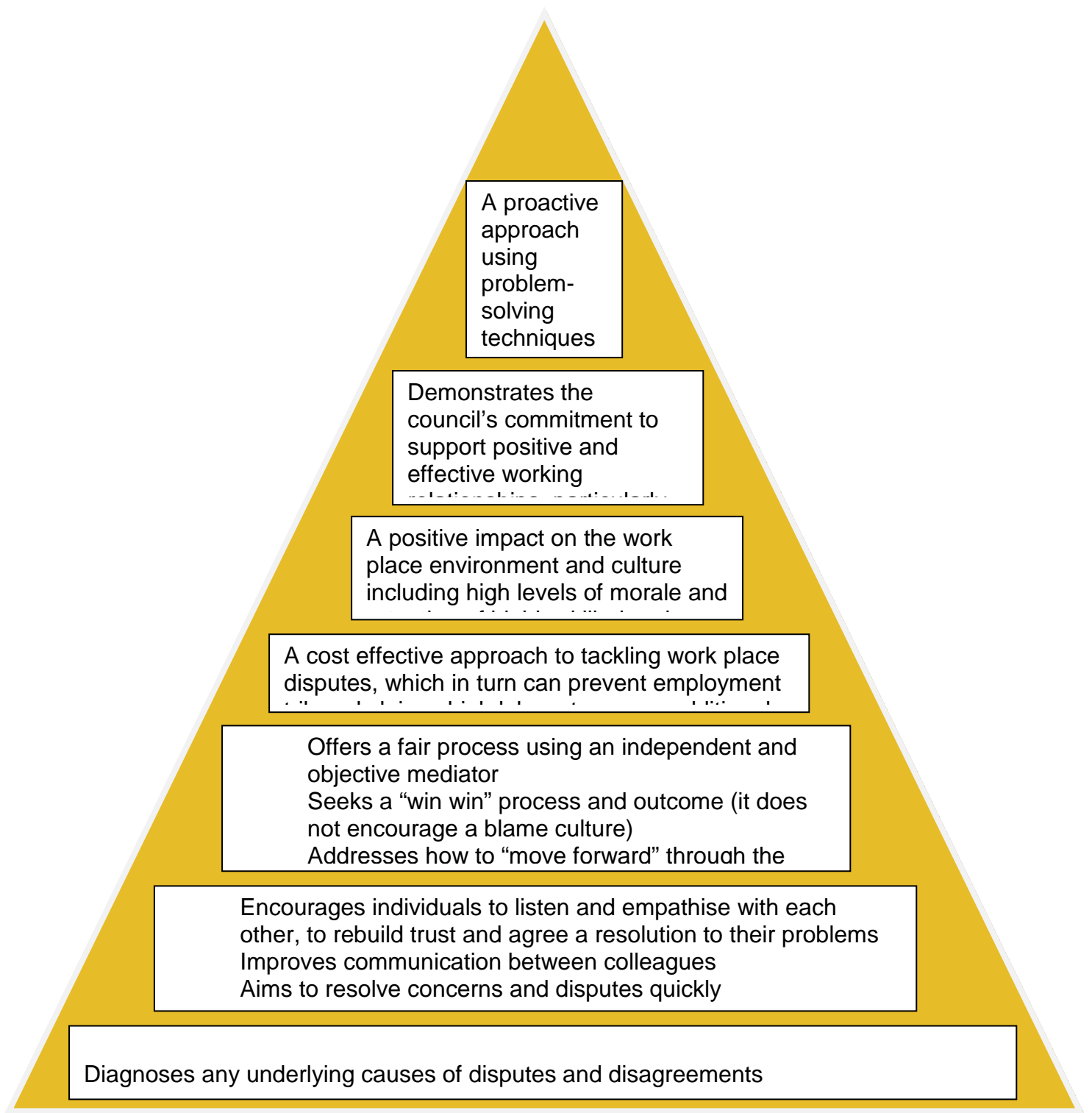
The overall aim is to bring people together with a neutral third party who will help them reach an understanding and settle a dispute or disagreement on their own terms.

The Council's Scheme has been introduced primarily to support managers and employees using the Fairness at Work Policy and Procedure. It does not replace council procedures but it offers a different way of resolving disagreements.

A request to use mediation can come from any party to a complaint or a people management issue. Human Resources in collaboration with all the parties involved will determine if mediation is the best way forward.

2. Advantages of Mediation

The council recognises the benefits to the organisation, managers and employees of a work place mediation facility. The potential benefits that can be derived from mediation are:



3. When to consider Mediation

It is important to know when it is appropriate to use mediation. It is likely to help different people at different times and stages of employment in an organisation. Generally it is most effective if introduced at an early stage of a dispute or disagreement.

Below are other examples of when it may be appropriate to consider mediation:

- before the initiation of formal action. It can be used as an informal resolution to a dispute or disagreement;
- in situations where communication has broken down;
- in cases of disputes and disagreements between managers and employees;
- in cases of disputes and disagreements between employees;
- in cases of disputes and disagreements between managers;
- to help restore working relationships;
- after formal action as a recommendation to achieve resolution;
- to facilitate resolution of a grievance.

There are some instances where **group mediation/co-mediation** maybe required. For example, where there is a dispute or disagreement between more than two individuals. A breakdown in working relations could affect a whole team. In such cases two mediators may be required to co-facilitate a group mediation session.

There may be cases where the parties are unable to mediate together (meet face to face) because of a serious breakdown in the working relations. In such cases **Shuttle Mediation** can be offered, where the mediator will work with both parties on an individual basis and negotiate/facilitate an agreement between the parties. Shuttle Mediation does not require the parties to come together, however, successful implementation of any agreement will depend on the nature of the working relationship. Shuttle mediation will not be appropriate in all circumstances.

Please consult a human resources adviser for further advice.

4. The role of the mediator

The role of the mediator is to act independently. They will have had no previous involvement in the dispute or disagreement and will not play a role in any subsequent formal hearings subject to issues involving risk to the council being raised. See Para 10 for exceptions. The mediator will be objective in their approach and remain neutral whilst seeking to resolve individuals concerns and/or differences in a way that is acceptable to both parties.

The mediator will ensure confidentiality is observed throughout the process and will not communicate with the line managers of the parties involved.

The Mediator will:

- be fair and consistent in their advice and approach to resolving the dispute or disagreement;
- ensure the validity and integrity of the process by maintaining confidentiality at all times. **(Refer to point 11, mediation and confidentiality exclusions);**
- assist both parties to find a solution without proving or disproving the rights and wrongs of the issue(s) raised;

- ensure that the outcome is recorded and the agreement signed by both parties;
- ensure all notes made during the meeting are destroyed after the follow up phone call to parties;
- commit to participating in refresher training and network meetings from time to time to ensure their skills remain effective and up to date.

5. The role of the employee, manager or parties involved in mediation

In order for mediation to work effectively, it requires commitment from all parties concerned. The parties involved must be prepared to accept suggestions and the views of others and keep an open mind about their desire for change.

The parties involved must:

- co-operate and participate with the process (including attending the mediation meeting at the agreed time);
- show respect to all parties involved in the mediation process (including, acting professionally, displaying a positive attitude and using the appropriate verbal and body language);
- maintain confidentiality (i.e. **not** discussing mediation with colleagues in the team or wider work environment (who do not need to know);
- be prepared to commit to a written agreement following a successful mediation meeting.

6. The role of Human Resources

Organisational effectiveness is central to the council's People Strategy. Human Resources play a key role helping the council to deliver its objectives and improve performance through the development of its employees and managers.

As people are key to the business, Human Resources recognises the importance of a healthy and stable workforce and has introduced initiatives such as the Mediation Scheme to support its employee relations strategy and proactively tackle any breakdown in working relations.

Human Resources are responsible for managing the Mediation Scheme and training and supporting mediators with regular training updates and network meetings to ensure a high quality and professional mediation service.

The information below outlines the key role of the Human Resources in the mediation process.

Human Resources will:

- act as the initial point of contact for employees and managers and advise on whether mediation is applicable;
- identify and contract with a mediator. The mediator will have no professional connections with the parties line manager(s);
- discuss with the parties any particular requirements regarding the appointment of a mediator e.g. race, gender;
- maintain a register of trained mediators and mediator profiles;
- maintain the mediator job and skills profile;

- ensure the pool of trained mediators are a reflection of a diverse workforce i.e. reflect the council's six diversity strands;
- manage the mediation and refresher training;
- arrange further training as appropriate;
- facilitate the co-ordination of quarterly network meetings with all trained mediators;
- evaluate and monitor the outcomes of all mediation sessions and the effectiveness of the mediation service **(see evaluation forms templates 2 & 4)**;
- feedback any follow up actions to the line manager where appropriate.

7. The Mediation Process

The mediation process involves:

- the employee or line manager contacting a human resources adviser;
- all parties committing to mediation as a means of resolving their differences and to fully participate in the process;
- identifying a mediator from the pool of trained mediators;
- the mediator contacting both parties to arrange a mediation meeting normally within 10 working days of receiving the request from Human Resources; **(Refer to Template Letter 1)**;
- neither party will have the right of representation during the mediation meeting; however if parties do wish to bring someone this is possible during the first pre-mediation meeting **only**, and that person must sign the confidentiality agreement;
- Human Resources will not be present at the meeting.

(See flowchart – page 11)

8. The Mediation Meeting

The mediation meeting will include the parties to the dispute or disagreement and an independent trained mediator. The mediation process will usually be completed in a working day.

The format will be:

- separate meetings with each party to establish individual issues and concerns, followed by a joint meeting to openly discuss issues and concerns and achieve a resolution;
- the meeting will be held in a private, confidential and neutral setting where possible i.e. away for the normal place of work.

At the **beginning of the meeting** the mediator will explain:

- the structure of the mediation process (including timescales and duration of the meeting);
- the principles of mediation including its main objective which is dispute resolution;
- the ground rules for the meeting i.e. respect, maintaining confidentiality and professionalism;
- the intention to secure an agreement that both parties commit to.

During the meeting

- the parties will separately outline their individual issues and concerns, together with examples, to the mediator;
- the parties will attempt to identify separately with the mediator an outcome that would resolve the issue/concern for them;

- the mediator will facilitate joint discussions to help the parties to find a mutual solution/agreement to address the issue/concern;
- if a mutual resolution is found and agreed, the mediator will formally record the outcome and all parties will sign an agreement indicating their commitment to the resolution.

At the end of the meeting:

- an evaluation form (**see templates 2 & 4**) for monitoring and equal opportunities purposes will be completed by the mediator and the parties and forwarded to human resources;
- all notes of the meeting will be destroyed at the end of the meeting;
- a decision will be made as to what, if any, information should be disclosed to the parties line manager(s) or human resources adviser with the parties agreement;
- as a minimum, the manager will be informed if an agreement has or has not been reached;
- if a resolution has not been found either party may choose to progress the matter under the Fairness at Work Policy and Procedure.

9. Next Steps

- All parties should fulfil their commit to the mutually agreed resolution;
- the mediator will raise any general issues and learning arising out of the process with a human resources adviser;
- if a mutual resolution and agreement has been reached, the mediator will contact the employees concerned within 3 months of the mediation meeting to ensure progress has been made.

10. Mediation & Confidentiality Exclusions

During mediation those involved in disputes might be making disclosures about matters of a sensitive and private nature. Discussions which take place will remain confidential and no formal record will be kept other than the agreement setting out the resolution.

Mediators will not discuss the content of the mediation meeting with an individual's line manager or human resources adviser without an individual's consent subject to the following exception.

If during a mediation meeting any of the issues (listed below) which involve an element of risk to the Council are raised or referred to by the parties to the dispute or disagreement the mediator has a responsibility to make the council aware of any such disclosures:

- child protection issues or protection of vulnerable adults
- conduct which is an offence or unlawful
- disclosures related to miscarriages of justice
- health and safety issues involving risk to the public, employees and the council as a service provider and employer
- damage to the environment
- unauthorised use of public funds
- possible fraud and corruption
- sexual or physical abuse of service users
- institutional racism
- serious harassment
- action to conceal any of the above

- any other unethical conduct or acts by employees that may bring the council into disrepute.

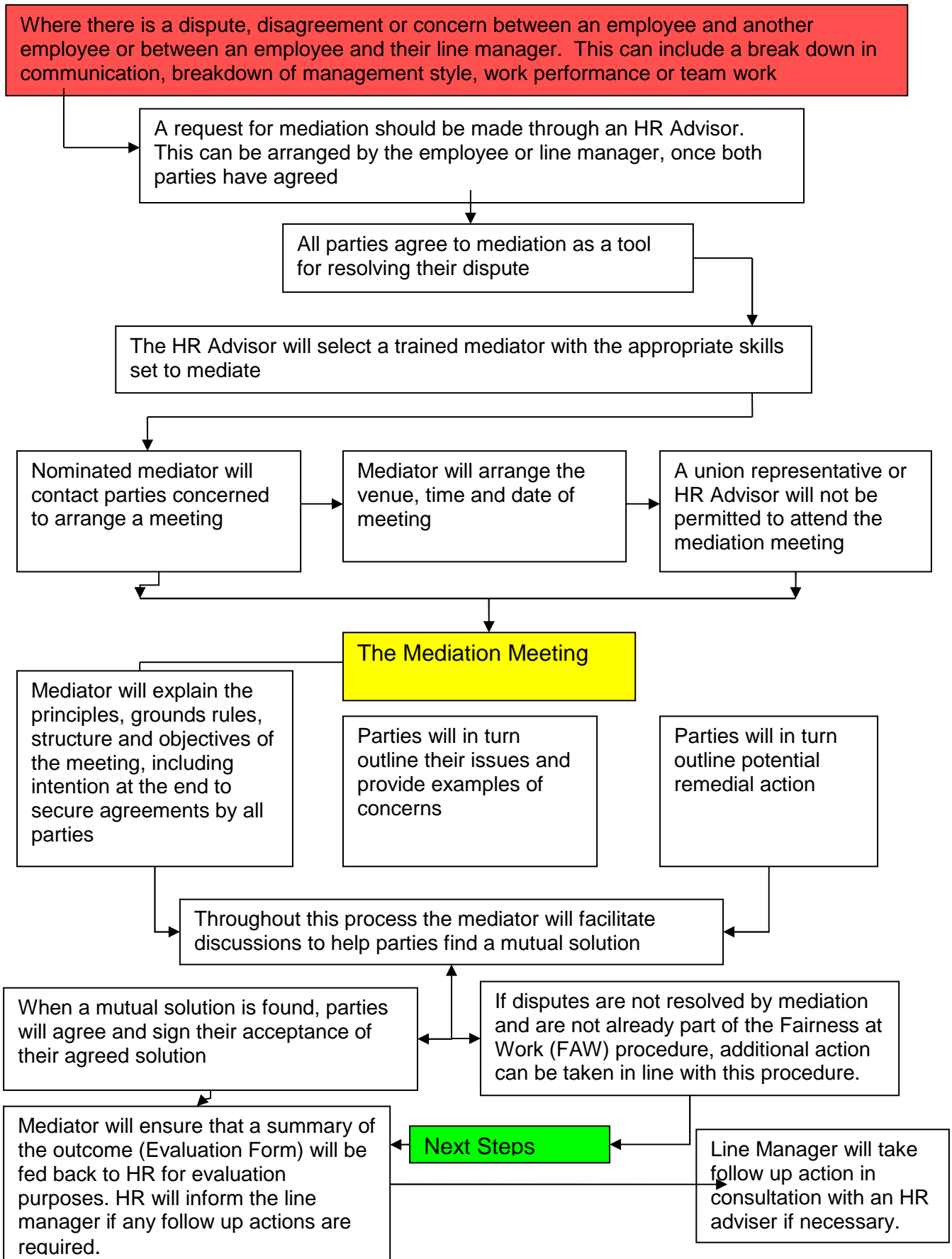
This is not an exhaustive list and other comparable issues may be raised by the parties on which the mediator will need to take a view on whether they should be disclosed.

Human Resources will receive the evaluation form for monitoring purposes. **(See template 4).**

11. Using External Mediators

There may be occasions when it is appropriate to use external mediators. For example in complex cases or where particular mediation skills are required. A human resources adviser will be able to advise on the use of external providers.

12. Mediation at a Glance



Workplace Mediation - Some FAQs

What is mediation?

Mediation is where a neutral third party intervenes in a workplace disagreement or dispute to assist the parties in finding a satisfactory outcome.

Is mediation voluntary?

Yes. Mediators will ask parties whether they have entered into the process freely and voluntarily. Mediation will only take place if the parties agree to participate. An employee will not be forced to be part of mediation but will be encouraged where it is considered mediation could realistically be part of a resolution.

Who are the mediators?

All mediators in Brent are trained, certified and experienced. Professional practice standards and the European Standards for Mediators are fully complied with when delivering mediation services. The mediators are members of the Professional Mediators Association (PMA).

Do mediators tell people what to do?

No. Mediators do not tell parties what to do. They do not judge who is right or wrong, nor do they impose a settlement or a solution.

How long does mediation last?

Mediation generally lasts for one full day. However, in more complex cases or in cases involving more than two parties, it may last for up to two or three days.

Is mediation confidential?

Yes. Parties sign a confidentiality agreement at the start of the process. Mediators will not disclose anything that is said during workplace mediation except to acknowledge whether an agreement was reached, without the permission of the parties. However, if both parties agree the mediator will provide a copy of the final agreement to the line manager. This will enable the manager to fully support the individuals in achieving the outcome.

Mediators will destroy all notes from the mediation meeting at the end of the process. Other than a copy of the agreement, no records are kept from the day and there will be no requirement for the mediators to provide evidence at any internal process or employment tribunal.

Where does mediation take place?

Mediation takes place in a neutral venue comprising of three rooms. Each party has their own private room for the entire day and there is a separate room for the joint meetings.

Can I have someone with me during mediation?

Whilst we recognise that parties may wish to have someone with them, the mediators will create an environment where parties do not need anyone else to support them. If parties do wish to bring someone this is possible during the first pre-mediation meeting only, and that person must sign the confidentiality agreement.

I thought mediation was about us meeting each other. Why do we have to meet the mediator separately first?

Having separate meetings with the mediator gives all parties the opportunity to talk about the conflict from their point of view. The mediator listens to what each party says and explores how each party feels, what their concerns are, and what their underlying needs are. Having listened to all sides, the mediator will propose an agenda for the joint meeting.

What happens at the end of mediation?

Hopefully, parties will have jointly found a resolution to their disagreement/dispute. This will be presented in the form of a written agreement and given to the parties (usually on the same day). The mediator will contact all parties within 3 months of the mediation meeting to ensure progress has been made. Following the follow up contact, the mediator will then destroy all documentation relating to the case.

If parties have not found a resolution to their disagreement/disputes, additional action can be taken in line with the Fairness at work procedure.

Who is TCM?

Total Conflict Management (TCM), is one of the UK's leading specialist providers of workplace and employment mediation services and training. The company was incorporated in June 2001. Over the past seven years, TCM has secured a reputation for providing innovative, high quality and cost effective dispute prevention and dispute resolution services to organisations across the UK.

Brent Council has been working in partnership with TCM to set-up the in-house mediation service. TCM trained the current mediators.

Does mediation really work?

Yes. Last year TCM's mediators achieved a resolution in **over 90% of cases**. However, for mediation to work it requires a commitment from all parties. When parties enter into mediation with a willingness to listen and to respect each other, to challenge and to be challenged, and to seek a new way of working together, there is a good chance that mediation will work.

Mediator Practice Standards

Brent Council's in-house mediators abide by a strict code of practice.

Our work is confidential. We will not give detailed feedback about what is covered during mediation unless all parties specifically request us to do so.

Mediation is voluntary. We will not force or coerce you into mediation.

We will not judge parties or assign blame or culpability.

We will ensure we are well prepared for every mediation session.

We have attended and completed a certified dispute resolution training programme.

We will engage in a process of ongoing professional development and reflective practice to ensure best mediation practice and delivery.