

Mediation Alternative Dispute Resolution Procedure



1.0 Introduction

As set out in the Mediation – Alternative Dispute Resolution policy, the University is committed to the promotion of a culture free from discrimination and conflict. The University promotes and encourages the resolution of interpersonal difficulties through informal means in so far as is possible. Mediation is one means of resolving issues in an informal manner and should be considered if other attempts at local level resolution have been unsuccessful. Employees and students should refer to the Dignity and Respect policy for further information on local level, informal options for resolution and those that can provide support and information to experiencing issues of a dignity and respect nature.

The following procedures set out how to request mediation, how the mediation process works, and the benefits of mediation.

2.0 Requesting Mediation

Employees

Access to mediation is made available through the Equality, Diversity and Inclusion (EDI) Unit. Mediation is mainly used to help resolve interpersonal difficulties between two parties but can also be of value in helping to restore the professional relationship following a formal complaints process for example. Mediation is focused on looking at future working relationships and is not a means of seeking retribution for past events. Any individual who is considering mediation can contact the Equality, Diversity and Inclusion Unit to arrange for a briefing if they wish to find out more information about the process.

If an individual wishes to request mediation, they must contact their line manager, or next level up if the issue is with their line manager, to discuss mediation as a means of resolving the issues they are experiencing. The line manager must be satisfied that all local level options have been exhausted in the first instance (see the UCD Dignity and Respect policy and procedure for informal options). If the

line manager feels that mediation is an option to be explored, they should advise the employee to contact the EDI Unit for a briefing on mediation to obtain further information about the process. Following the briefing, if the employee wishes to engage in the mediation process, the line manager should contact the other party identified by the individual to ascertain if they are willing to consider engaging in mediation. In the case of the other party being employed in another area, the line manager should contact their line manager so that they can approach the other party about mediation and to advise them to contact the EDI Unit for further information prior to making a decision.

If both parties agree to mediation, the “Request to Enter into Mediation” form must be completed by the manager and sent to edi@ucd.ie. The form will require the names of both parties, the local level interventions that have taken place to date, the nature of the issue, and the signature of the line manager(s). The line manager(s) signatures are required to confirm that local level interventions have taken place and also that they are agreeing to release the employees for the mediation meetings. On receipt of the completed form, the EDI manager will contact the line manager(s) and once satisfied that all local level interventions have been attempted, will commence organising the mediation process with an external mediator. As mediation is a voluntary, both parties must agree to engage with the process.

Mediation may alternatively be instigated by the line manager as a means of resolving issues or restoring the professional relationship between two individuals. In the case of a formal Dignity and Respect complaint, both parties to the complaint must attend a mandatory briefing on the mediation process provided by the EDI Unit. However, the decision remains with the parties as to whether they agree to enter into the process due to its voluntary nature.

Students

In the case of a student requesting to engage in the mediation process with another student or employee, they should discuss the situation with their Student Adviser in the first instance. If the issue is of a dignity and respect nature the student will be referred to a Dignity and Respect Contact Person where the student will be advised of the various options open to them for resolution, including mediation. They should be advised to request a briefing on the mediation process from the EDI Unit (edi@ucd.ie). If both parties agree to mediation, the EDI Unit will arrange for the mediation process to commence, mediation cannot take place unless both parties agree. In the case of a formal

Dignity and Respect complaint, both parties to the complaint must attend a mandatory briefing on the mediation process provided by the EDI Unit. However, the decision remains with the parties as to whether they agree to enter into the process due to its voluntary nature.

3.0 Mediation Process

The first stage in the process involves separate meetings between the mediator and the individuals involved. These meetings are designed to ensure that the parties:

- Understand and have confidence in the mediation process and mediator.
- Discuss the issues from their perspective.
- Think about key issues discussed with the mediator at the initial meeting so that they are better prepared for the joint meeting.

After the initial meeting the parties will be invited to a joint face to face meeting where, with the support and guidance of the mediator, they will work towards reaching a mutually satisfactory outcome.

At the end of the discussion the mediator will assist the parties to draw up an agreement if one has been reached. This agreement is confidential to the parties unless they agree to share it with the University (in some instances, for example, the agreement may include a request for action from the University). The Mediator will notify the University as to whether an agreement has been reached through the Equality, Diversity and Inclusion Manager who will notify line management.

During the process the following principles will be adhered to:

- All meetings are confidential. The only exception to this rule is where there is evidence of a serious breach of Statutory/University rules or policy or where there is evidence of serious risk to health and safety. In those circumstances the process will be terminated and the EDI Manager will be informed.
- The mediator is impartial and does not take sides.
- It is solution focused – the object of the exercise is to reach a workable and mutually agreeable solution to the conflict or issue of difference.

- It is future focused – past issues may be reviewed only for the purposes of agreeing how to work together better in the future.
- All parties have the right to withdraw from the process at any time.
- There may be circumstances where mediation will not be recommended, for example where disciplinary action has been instigated.
- Mediation is voluntary and is not normally legally binding.

4.0 Mediation where a Formal Complaint has been made

In the case of a formal Dignity and Respect complaint, both parties to the complaint must attend a mandatory briefing on mediation. If both parties agree to enter into mediation, then the formal complaints process will be on hold until the outcome of mediation is known.

The EDI Manager will be informed of the outcome of mediation by the mediator. If an agreement is reached at mediation, the Employee Relations Unit will write to the complainant to confirm that agreement has been reached and that the formal complaint is being withdrawn. The Employee Relations Unit will then write to the respondent to confirm that the formal complaint is withdrawn. This mediation agreement does not prevent any employee from making a formal complaint in the future.

If agreement is not reached at mediation, Employee Relations will write to both parties to confirm this and the formal complaints process will resume.

5.0 Benefits of Mediation

The benefits of mediation include:

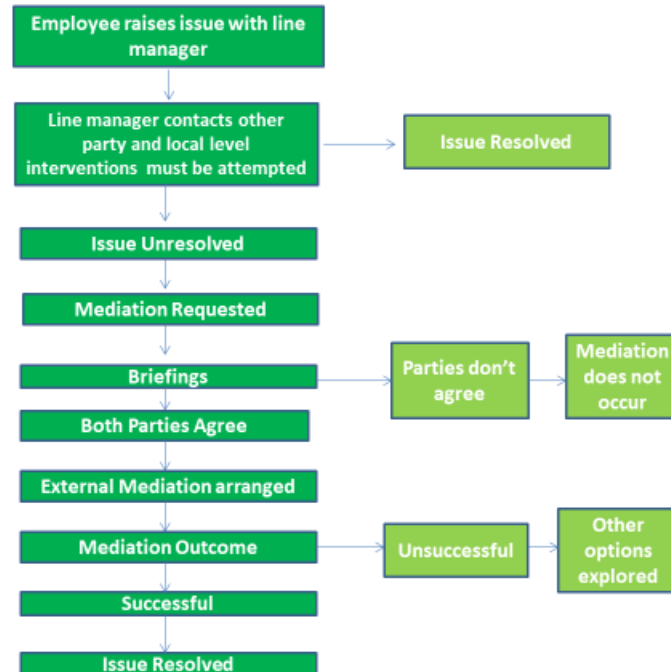
- It is an opportunity to resolve a problem in an informal non-adversarial way.
- The resolution of the issue remains in the control of the individuals directly concerned. They will be involved in the development of the solution and as a result the outcome is likely to be better and longer lasting.
- It has the potential for a high success rate and positive outcomes where the parties are genuinely committed to a resolution.

- Mediation focuses on the future working relationships of those involved.
- It is flexible to the needs of the parties and much faster than more formal processes.
- Mediation is a confidential process. The mediator agrees with the parties that they will disclose any information arising in the mediation process. The parties themselves must maintain confidentiality as to what happens at mediation except where they agree otherwise.
- The purpose of mediation is to provide a safe space where people can be open and honest, therefore it is not appropriate for any information learned through the mediation process to be used in a grievance procedure or similar process. This does not include information that parties were aware of prior to mediation.
- The settlement terms remain confidential to the parties and to the mediator except if parties otherwise agree.

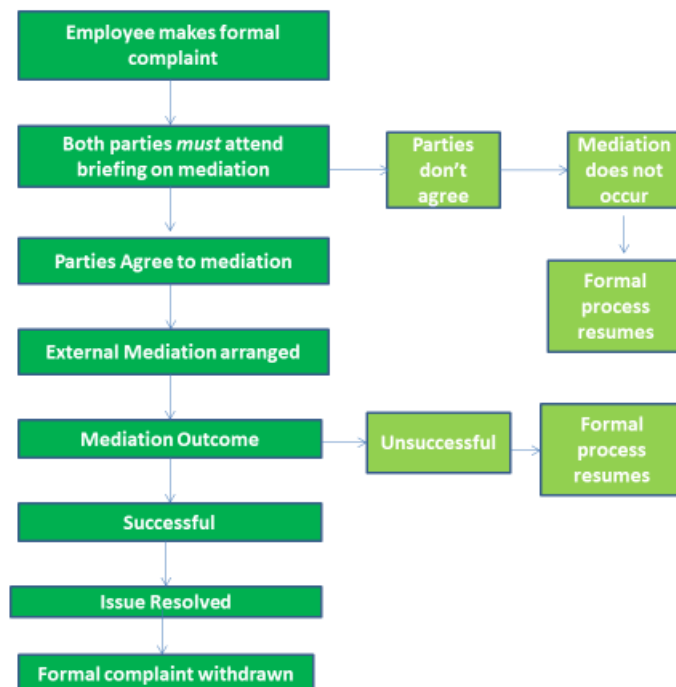
Appendix 1

Mediation Process - Employees

Mediation (informal resolution)



Mediation (as part of formal process)



Appendix 2

Mediation Process – Students

