

Ministry of Defence Police



Mediation Policy

August 2015

Contents

1.	Introduction	3
2.	Equality and Diversity.....	4
3.	Management Objectives of the Mediation Scheme	4
4.	Who can use the Mediation Service.....	4
5.	The Benefits of Mediation	5
6.	When Mediation may not be used.....	5
7.	Accessing the Service.....	6
8.	How Mediation will work.....	6
9.	Confidentiality	7
10.	Feedback/Evaluation.....	7
11.	Further Information.....	7

Appendixes

- A. Tips on how to make the most of mediation
- B. Flow chart of MDP Mediation Policy



The majority of the contents in this document has been provided to the MDP by CMP Resolutions.

1. Introduction

1.1 MDP is committed to high standards of professional behaviour via Our Policing Style and the Code of Ethics. The MDP Mediation Policy is intended to support the Force's commitment to providing a working environment free from harassment, bullying and other unacceptable behaviour.

1.2 This policy document sets out the framework for mediation in the MDP including information about mediation, the benefits for all parties and the organisation, how mediation typically works and who to contact as well as where to go for further information. The MDP uses the MOD Mediation Service and documentation, including forms except the mediation policy, which is replaced by this document.

1.3 Mediation has been proven to help communication by supporting members of staff in clarifying the issues involved in conflict and examining how these have arisen. Mediation offers a way for members of staff to explore options for resolution, and is focused on bringing people together to find a mutually agreeable solution.

1.4 Mediation has also proven an effective way of resolving disputes at an early point between two or more parties. When parties are unable to resolve a dispute, one good option is to turn to mediation. In mediation, the disputing parties work with a neutral third party, the mediator, to help them resolve their disputes.

1.5 Mediation is a voluntary process that supports people in resolving workplace disagreements in a way that is fair and agreed by both parties. Mediation can only work if all parties are willing to participate, however MDP policy is that MDP officers who are potential complainants must have a conversation with a mediator about the benefits of mediation before they can submit a formal complaint. The intention of this approach is to identify situations which may be suitable for mediation, and look to resolve issues as quickly as possible and at the lowest level of intervention.

1.6 A mediator is impartial and their role is to help individuals consider the options that are available and help all parties formulate proposals or agreements. A mediator is not there to 'hear the case' and make a judgement. He or she will not take sides or pressurise anyone to agree: a mediator has no vested interest in the outcome, and will not impose a solution or attach blame. The mediator will help both parties to be clear about the questions and issues that need to be discussed; to facilitate open communication between the parties, help them find common ground and collect all the information needed to consider the options open to both parties. The mediator will not advise on the final course of action as the decision remains with each party.

1.7 The MOD Mediation Service has a team of mediators who have been professionally trained and include some MDP officers. The mediators are a mixed group of staff, from a range of grades, ranks and departments across the Force and the wider MOD.

1.8 For mediation to be effective, it is vital that members of staff trust the process and feel free to talk in confidence. Both/all members of staff participating in mediation will be asked to agree and sign the 'HR Form 244: MOD Confidentiality and Participation Agreement', see 'Related Items'.

2. Equality and Diversity

2.1 MDP treats equality of opportunity seriously and has a diversity strategy and action plan in order to promote and ensure equality of opportunity. Implementation of this mediation process must be clear and transparent and not subject to any unfair discriminatory practices. Line managers and supervisors are required to familiarise themselves with and understand this process.

3. Management Objectives of the Mediation Scheme

3.1 The MDP is using mediation to help meet the following objectives:

- Enable people to raise issues which previously they kept silent about due to reluctance to 'go formal' – thereby aligning our Bullying and Harassment/My MDP Survey results with our dispute resolution activities.
- Improve conflict management skills within the organisation to change the organisation's culture to a 'resolution culture'
- As part of our employee wellbeing strategy and wider organisational approach to employee engagement.
- Reduce the number of formal complaints and save against the direct and indirect costs of conflict.
- Reduce and shorten instances of conflict-related absences.
- Identify "conflict hotspots" within the organisation – in terms of grade/role/rank, gender, ethnicity, teams, or issues which are triggering conflict (based on anonymous data).
- Reduce line management time spent managing and resolving disputes and therefore enable an increased focus on other activities.

4. Who can use the Mediation Service

4.1 The MOD Mediation Service is open to all staff and everybody is encouraged to use the service. However, the MDP Mediation Policy applies only to MDP officers. The MOD Mediation Policy applies to MDP Non-Uniform Civil Servants (NUCS). Mediation can only work if all parties are willing to participate, however the main difference in the MDP Mediation Policy is that MDP officers who are potential complainants must have a conversation with a mediator about the benefits of mediation before they can submit any form of complaint of harassment, discrimination, bullying or a grievance.

4.2 This is not to say that the mediation cannot be used by parties seeking resolution to other forms of disputes; individuals can turn to mediation at any time, no matter what the issues are or how they are feeling, or who the conflict is with.

4.3 The purpose of the MOD Mediation Service is to provide a professional mediation service that allows all parties to speak confidentially in a safe and secure environment and to encourage a mutual understanding to improve relationships. The aim of the scheme is

to essentially resolve internal disputes before they escalate to the formal stage of either the harassment and bullying or grievance processes. In many cases difficulties arise between parties as a result of personality clashes, breakdown in communication or disagreements over work style and behaviour; such matters can be resolved effectively by using mediation.

5. The Benefits of Mediation

5.1 Mediation can benefit both the parties involved as well as the organisation. In particular the Service aims to:

- be fast and effective in resolving disputes
- improve communication and working relationships
- reduce levels of stress and tension around difficult relationships which can lead to sickness absences
- help the parties involved come up with a solution which works for both parties
- be used as an alternative to the formal procedures
- repair and rebuild working relationships – poor working relationships can lead to various issues in the workplace including under productivity and poor performance
- deal with disputes at an early stage, which is good management practice and can help managers to better manage problems when they arise with minimum disruption
- resolve disputes between individuals which will often result in better relationships forming across the team, improvements in staff morale and positively impact upon team working
- remedy manageable causes of workplace tension such as poor relationships, which can help reduce stress related absence and long-term sickness
- maintain the parties' working relationship

5.2 Mediation can be useful at any stage of a dispute but is most effective in the early stages. Successfully and sensitively applied, mediation can avoid escalation to a position where formal procedures need to be implemented. This avoids stress on all those involved and can avoid associated dips in performance. It does not require you to lodge any formal proceedings against a colleague, and the outcome will not result in any formal measures, but rather a mutually developed agreement about how to go forward.

6. When Mediation may not be used

6.1 Some cases are unsuitable for mediation. For instance, mediation would probably not be appropriate in cases involving performance management or assessment. Likewise

cases where it is possible that the law may have been broken should be pursued through formal procedures.

7. Accessing the Service

7.1 Either party or the line manager of one of those involved in a dispute may request mediation.

7.2 If an employee brings a situation to your attention as a line manager that you feel may benefit from mediation, you should ask whether they have considered mediation and promote the benefits of it as a method for resolving disputes informally. You may also find the 'HR Form 242: Line manager's mediation checklist' (see 'Related Items') useful to run through with mediation potential participants.

7.3 Once a request is received for mediation using an 'HR Form 243: MOD Mediation Service Referral Form' (see 'Related Items'), a suitable mediator will be allocated by the DBS Contact Centre (along with an 'HR Form 244: MOD Confidentiality and Participation Agreement') and a mediator/s will be allocated.

8. How Mediation will work

8.1 The allocated mediator/s will meet with each party individually and privately in order to listen and gain a thorough understanding of their issues and concerns and what they might hope to achieve by using mediation. The mediator may also ask you to complete 'HR Form 245: Your Goals for Mediation' to help you think through your goals and personal needs from the mediation process. This initial meeting is also an opportunity for both parties to learn more about the process, discuss any reservations they may have about mediation and consider how they might use it most effectively. If not already done so all parties involved will be asked to sign a confidentiality agreement ('HR Form 244: MOD Confidentiality and Participation Agreement') prior to starting the mediation process.

8.2 Following this, and only after the agreement of both parties involved, a joint meeting will be arranged between the mediator/s and the parties involved at a neutral venue where they will have uninterrupted time to explain their concerns to one another. The mediator will invite each party to speak individually; included at the end of this policy document are some tips on how to make the most of mediation (Appendix A). The mediator will then summarise the main issues and agree an agenda for how the session should progress. The mediator will then encourage the parties to discuss the situation honestly and frankly with each other, look at the problems in turn and move towards ideas for solutions.

8.3 Finally, the mediator will help each party to reach an agreement which meets everyone's needs and is workable and realistic. This agreement belongs to the parties; it is not shared with anyone and does not form any part of your employment contract. Mediation is totally confidential; however in some cases it is helpful to provide feedback to others outside the dispute. This can be discussed and only done with the agreement of both parties.

9. Confidentiality

9.1 The Force takes confidentiality in mediation very seriously therefore both parties will be asked to sign an agreement (HR Form 244) detailing the principals of mediation, including confidentiality when both parties meet with the mediator. These principals include:

9.1.1 Commitment by parties – Mediation is an entirely confidential service. All those involved in the MOD Mediation Service will maintain confidentiality throughout all stages of the mediation process. All those involved in any stage of the mediation process are expected to commit to the confidentiality of information disclosed during the process.

9.1.2 Legally privileged – All discussions during mediation will be held on a “without prejudice” and “privileged” basis, meaning that anything said during the process is for resolution purposes only, nothing said by anyone in the process can be used as evidence in any subsequent:

- Management or Formal Investigation
- Misconduct Action
- Grievance or Appeal
- Employment Tribunal or Police Tribunal

9.1.3 Exceptions to confidentiality –The two exceptions to confidentiality are if someone is at risk of serious harm (including safeguarding concerns); or there is a disclosure of criminal activity, which mean that the mediator may contact a relevant authority about these specific matters, and that the mediator will inform the party involved before doing so. If any of the parties involved in a mediation session makes a complaint against a mediator, the mediator may also disclose information from the session, to the extent necessary for his/her own defence.

10. Feedback/Evaluation

10.1 The mediator will follow up mediation after three months by sending a questionnaire (‘HR Form 246: Post Mediation Evaluation Form’) to check that the action plans and agreements remain intact. Please do complete this evaluation form as it will provide the force with valuable information about the types of situations which have hopefully been resolved through mediation.

11. Further Information

11.1 Frequently asked questions are available on the ‘advice’ tab of the MOD Mediation Service website. There is also a link to the [‘Individual Assessment & Stress Reduction Tool’](#) which some may find useful.

MDP Mediation Policy

How to make the most of mediation

1. **Remember what is important to you** in the longer term. Being in dispute can make you lose sight of this. To help you focus on what is really important think about what would happen in this situation in the worst possible scenario. What is at stake if the dispute ends up going out of your control?
2. **Ask yourself 'Do I want this to work'?** A successful mediation is dependent on everyone working towards clarifying understanding, and possibly reaching agreements. Some peoples regret if they end up in court is: 'I wish I had made more of the mediation'. This is a positive opportunity to think about and plan for your future and move on from the past.
3. **Be creative.** Consider as many different ways and ideas as possible to get what you want. The more solutions you can think of will mean that you are not limited in your approach. This is not 'giving in' – it's wise.
4. **Hear people out.** Be prepared to listen to others point of view. Someone may be offering you something better than what you initially wanted – don't miss it. You may learn something or hear something that changes the way you feel about the other person, or the dispute.
5. **Be specific.** It is hard for others to know what is meant if you ask for general things like, respect, understanding etc. These mean different things to different people.

Five pitfalls

6. **Digging in.** Coming to the mediation with a fixed position is common. People often want to state a point of principle because they feel that they have been wronged. As a result they are unwilling to negotiate on anything. It is important to remember that:
 - you have to work with this person even if you disagree.
 - this situation may be making you ill
 - you could lose out - both money, occupation and quality of life – if this ends up in a formal procedure or court

7. **Being right.** It is natural to want people to see your point of view. However, it is quite astonishing just how shocked people are when they discover that the person they thought was intentionally trying to make their lives a misery was very ill, or didn't understand, or felt the same about things as you did. It is more humiliating when your case is represented in court and a district judge decides that you are wrong and should pay the costs. Don't be too quick to dismiss other people's views.
8. **Thinking that you have to agree.** Sometimes people don't want to say anything at mediation because they feel it is going to be held in evidence against them. This cannot be true as mediation is a non-legal process and anything that is said is confidential (within the limits explained). If you are unsure about something ask the mediator for a private meeting to help you say what you want to say. Remember you don't have to agree, but not saying anything will mean you have denied yourself an opportunity to get the things you need without having to enforce your rights.
9. **Using evidence.** People going through mediation sometimes want to bring files of evidence. The way in which this is presented can make others feel threatened and want to defend their position. This way of interacting is best left to the lawyers and the courts. If you want to bring information do it on the basis that you want people to understand your experience and not because you're intending to take them to court or to prove them wrong.
10. **Unexpected guests.** Please tell the mediator if you wish to bring someone to support you. It has been known for people to bring their lawyers unannounced. The mediator will not want unexpected participants in this meeting.

MDP Mediation Policy flow chart

Annex B

