

Conflict and mediation in the workplace

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The latest HR Forum discussed the role of mediation for resolving conflict between colleagues

Conflict in a business context can cause easily avoided complications. Mediation is a way to work towards a resolution that is best for all the parties involved.

The HR Forum gathered on 4 July to address the merits of this approach. Participants heard from **Caroline de La Rochère**, Civil Mediator, **Mediation Impact**, and **Richard Isham**, Partner – Head of Employment, **Wedlake Bell LLP**. The session was co-chaired by **Pia Dekkers**, HR Director, **Chanel**, and **Melanie Stancliffe**, Partner – Employment, **Irwin Mitchell LLP**.



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The how and what of mediation

Caroline de La Rochère, Civil Mediator, first defined the key characteristics of mediation as a voluntary discussion led by an independent party between employees involved in a workplace dispute. The discussions are most efficient when deployed in the early stages of the conflict. De La Rochère also highlights that ‘confidentiality is an essential part of being able to reach agreements.’

For the business, workplace conflict can give rise to decreased productivity, absenteeism and under performance. An estimated 370 million working days are lost every year due to conflict, having a direct impact on business profit. An Employment Tribunal can also be a costly approach.

In contrast, mediation proves to be a less expensive solution. The mediation itself can take place as an individual meeting between the mediator and each party. Alternatively, a joint meeting can be organised to work towards a mutually acceptable solution. In either instance, ‘the objective is to find

an agreement, to find a way to work together,’ says de la Rochère.

De la Rochère says that best practises, such as active listening, allow the parties to offload all their grievances. Whereas negotiation deals with facts, mediation also takes feelings into account. De la Rochère therefore emphasises that this will remain a human skill rather than a task delegated to AI, due to its ‘soft skill’ credentials, now starting to be taught in developed countries.

According to figures from the public body for mediation, ACAS (Advisory, Conciliation and Arbitration Service), 80% of workplace mediations reach a positive outcome. A mediation is considered a success when a win/win outcome is achieved for both parties.

Perceptions and options

Richard Isham, Partner and Head of Employment at Wedlake Bell, says that perception is often an issue when using mediation to resolve problems.

Employers offering mediation believe this reflects weakness, while employees can find it a stressful process.

Trust is also a key factor in mediation. Isham notes that some companies have internal mediators. If employees don't trust the company, an external mediator will be required.

Companies can choose between private mediation, which are ‘voluntary and confidential,’ or a judicial mediation. This option was introduced in 2009 and offers guidance from an independent judge. Sixty-five percent of judicial mediation cases are settled within the day and with 58 percent settled even before a hearing.

Isham raises the fact that a protected conversation is different to mediation, as it is protection against unfair dismissal only. It allows the employer to engage in a conversation with the employee before the dispute. ‘The protected conversation is designed to help the situation before the dispute comes out,’ says Isham. ■ **SL**