



Mediation Guidance

(To be read in conjunction with Grievance Resolution
Procedure and Dignity at Work Code of Practice)

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Preston Primary Academy Trust

Mediation Guidance

This policy has been written with the underlying principles of a Church of England school, which applies to Preston C of E Primary School and North Cadbury C of E Primary School.

This Guidance has been subject to consultation with recognised schools trade unions and was formally agreed on 11 November 2014 with a recommendation that the Guidance be shared with and noted by Somerset Schools.

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1. **What is Mediation?**

Mediation is a process by which an impartial, trained person helps two or more people in a dispute to talk about their situation, exchange their concerns and come up with ideas about how to move the dispute forward. What is discussed in a mediation meeting is confidential between the agreed relevant parties and there are ground rules to help people feel confident and safe enough to communicate their needs, feelings and concerns.

2. **Stages of Mediation**

Although each mediator may approach mediation slightly differently, the basics of the process would usually involve the following:

Stage 1 - Separate Meetings

The first stage is for the mediator to meet separately with each party involved to establish what outcome they would like to achieve from the process and acquire further information. The mediator will:

- explain the mediation process to each party, how it works and the benefits of using mediation to find a way forward;
- answer any questions each party has and address any concerns;
- explore with each party their key issues in relation to their conflict and review the information. The mediator will want each party to describe the situation from their own point of view, to know about the history of the conflict, the impact that it is having on the parties, their work and performance, and what they would like to achieve from the mediation.

The mediator would normally expect to allow at least approximately one hour for each meeting in stage 1.

Stage 2 - Joint Meeting

Once the mediator has spoken to both parties separately and they have agreed they still want to proceed with mediation then the mediator will hold a joint mediation meeting with both parties.

In the first part of the joint mediation meeting, the mediator will set the tone for the meeting and explain the key principles and ground rules as set out below.

3. **Key Principles:**

The mediator will reiterate at the start of the joint meeting the key principles of mediation which are:

- confidentiality; this is important for all involved;

- impartiality; the mediator will explain that they are impartial to the process;
- flexibility; to shape and meet the needs of the parties to accommodate any different parts the parties may have to their dispute;
- informality; mediation is an informal process.

4. **Ground Rules:**

At the start of the joint meeting the mediator may also recommend some ground rules, to enhance the quality of the conversation, examples are;

Each party will:

- be open about how they feel, what their problem is and what they want;
- listen to the other person/people;
- think about how things could be improved in the future;
- try to understand and accept the other people involved;
- listen without interrupting;
- avoid using words or language that could be perceived by either party as inflammatory.

The mediator will:

- ensure that everyone has equal opportunity to communicate (speak and listen), negotiate and work out realistic and fair agreements;
- intervene if required to remind each part of the ground rules they agreed to at the start of the process to prevent any name-calling, abuse or any behaviour that prevents either party from negotiating fairly;
- remain impartial; they will not take sides or make any decisions for either party.

Before they start, the mediator will clarify with both parties if they are still prepared to go ahead and if they are then it is then time for the parties to speak.

5. **The Meeting**

At the start of the meeting each party will be asked to provide their opening statement, so the mediator can explore this further and work towards an outcome and written agreement.

Opening Statements

Each party is given a short, uninterrupted period, to tell their side of the story. This includes explaining: the conflict from their perspective; how they see events; how they have been affected by the conflict; and what they would like to achieve from the mediation process.

It is recognised that this can be an uncomfortable time for the parties, as they have to tell their story in the same room as each other. The parties have to listen to what is being said, often hearing things with which they do not agree or are particularly uncomfortable with. The mediator will ensure that this period of uninterrupted speaking is respected by everyone, including the mediator. Therefore, everyone will be expected to refrain from seeking to clarify information or asking any questions at this stage.

Following the opening statement by each party, the mediator summarises what the parties have said, including the facts and feelings that they have expressed and reflects this back to each party by summarising this as a means of demonstrating their own understanding.

Exploring

After the parties have spoken, the mediator will summarise their own understanding of what the parties have said, ask the parties questions to clarify any of the points they have made and probe further into any issues they may think are contentious. The purpose of the exploring phase is for all parties to improve their understanding of the issues and begin to formulate an agenda for further discussion. The mediator may also use the exploration phase to investigate the issues and elicit the parties' interests and needs. The mediator may also want to clarify their own understanding by reframing what each party has said but may choose to re-word it in a more constructive way.

Once the mediator has done this, they will invite each of the parties to respond separately.

During the mediation the mediator will intervene, if any of the party's behaviour or engagement with the process is not helpful, reminding each of the parties of the purpose of the meeting and what they agreed to.

Problem-Solving and Negotiation

When the mediator and both parties have established their interests and prioritised the issues that need to be addressed during the mediation process, the mediator can assist the parties to generate ideas and options that satisfy each party's interests.

The mediation process is not necessarily about finding a compromise. It is about exploring a wide range of creative options that meet the needs of the parties. The mediator will help the parties to distil their ideas and proposals by establishing with them to what extent their proposed solutions satisfy their interests and are realistic, practical, robust and sustainable.

Mediation can create the possibility of a range of outcomes, because the focus is on finding a solution that satisfies the needs and interests of the parties. The parties will

be empowered to take charge of the outcome and encouraged to commit to following it through to reach an agreement.

The parties' interests and needs can incorporate tangible interests, for example the control or distribution of resources, and intangible interests, for example being treated with dignity or receiving recognition for positive contribution to projects.

Agreeing a Written Agreement

The desired outcome from mediation is for both parties to agree to an agreement or action plan which they can then employ in the workplace.

The written agreement is designed to represent an explicit joint commitment to improve the parties' situation going forward and can remind the parties of how well they worked together during the mediation process to reach an agreement.

Examples of a mediation agreement could include:

- an apology from one party to the other, where the wording and nature of the apology is agreed;
- a "behavioural agreement" whereby the parties commit to acting differently towards each other in future, the specifics of which could include earmarking particular times to talk through challenges or to review progress;
- modifying an appraisal process to make it more transparent;
- putting in place flexible working arrangements to accommodate the parties' respective needs.

If the parties are reluctant to sign an agreement, the mediator will want to explore the reasons why with them. They will remind them they are not compelled to enter into the written agreement if they don't wish to but also reiterate its purpose and the importance of having a written agreement in a workplace dispute.

The agreement itself is not a legally binding agreement so cannot be enforced.

Once the parties agree to a written agreement, then the mediator will invite the parties to formalise it and put it into writing. The mediator will ensure that the points of agreement established by the parties during the mediation are accurate and finalised for the written agreement before the mediation comes to a close.

Closing the mediation

The mediator will close the session once an agreement has been reached and written.

If an agreement cannot be reached, then other procedures may have to be considered to resolve the conflict.

6. Follow up after the Mediation and Sharing Feedback from the Mediation with Person who Referred the Case to Mediation

The mediator will record the details of the agreement reached or not reached, and the terms of the agreement, if reached. After the mediation process, only the parties to the mediation should keep a copy of the agreement.

The mediator will also discuss any agreed follow-up arrangements with both parties and with their consent, the mediator will discuss sharing pre-agreed feedback regarding the mediation with the person who referred the case to mediation.

The mediator will, at the very least, inform the commissioning officer as to whether the mediation was successful or unsuccessful.

The mediator will have to raise with the commissioning school, concerns for the health and wellbeing of anyone involved in the mediation process as well as any safeguarding or disciplinary concerns that may have arisen during the mediation process.

7. Mediation Services

The Trust uses the services of Support Service for Education (SSE) schools HR Advisory Service which has trained mediators and can provide this chargeable service. If a school would like to arrange mediation or obtain further information, advice or guidance, then please contact the Schools HR Advisory Service on 01823 355992.

Summary of Steps to Meeting

The mediator will hold a confidential meeting, with all parties present, which will proceed in five steps as follows:

1. Describing the problem – each party will have 10 minutes to open with, without interruption, an explanation of how they see the situation and what they would like to happen.
2. Exploring the issues – the mediator will ensure people are clear what the important issues are, checking facts, comparing views of the problem, agreeing what issues can realistically be settled by mediation, agreeing to continue.
3. Building agreements – the mediator will explore what people want and what can be done about the situation, working through differences, managing conflict, problem-solving, preparing for decisions
4. Making agreements – the mediator will not make suggestions or tell you what to do. Instead, they will help you come up with ideas for solutions, which everyone is willing to accept. They will test likely outcomes, describing in detail what will happen next, future arrangements, what happens if something goes wrong.
5. Closure and follow-up – ending the session, agreeing plans for future contact between the mediators and yourselves, if needed.

Summary of Ground Rules for Mediation (these apply to all parties and the mediator)

In order for you to maximise the opportunities presented by mediation, everyone taking part is asked to agree to the following ground rules:

- A. Listen to what each person has to say and speak one at a time.
- B. Think how you would like to be treated and speak and behave in a non-threatening way.
- C. Be as open as you can about what your concerns are and what you need.
- D. Be as specific as you can about what you want to happen, what you can do and what you would like others to do.
- E. Stay seated and discuss any problems and doubts with the mediator – request a private space with them if you feel you need to.
- F. The mediator may pause the mediation or end it if they feel it is necessary.
- G. All parties will keep the details of what is discussed private – the mediation is confidential and will only be discussed with agreed relevant parties.