

In Summary

This document is designed to outline the University's approach to mediation for staff and students, who are part of a reported dispute. It provides the University's definition of mediation, the situations in which mediation may be offered and prove beneficial, how mediation is managed, the responsibilities of all parties, the mediation process and how it is evaluated.

[Warwick Mediation Service](#) is also available to staff and students who need to have difficult conversations in a safe environment with a trained impartial mediator. All parties who engage with Warwick Mediation Service are told the process is voluntary and that it will not affect their ability to pursue other forms of resolution. No conflict is too small for Warwick Mediation Service.

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1. Purpose

- 1.1 This document provides a framework, detailing the University's approach to mediation for staff and students, who are part of a reported dispute. It aims to provide clarity on the University's process and standards. It also provides clarity on when mediation may be offered, responsibilities of parties involved and how the success or otherwise of mediation is monitored and evaluated.
- 1.2 The purpose of mediation is to primarily provide an alternative approach to reported dispute resolution processes, where appropriate.
- 1.3 This mediation process can also be accessed following a formal disciplinary process, where it may be appropriate, for example where a formal disciplinary charge is found not proven.

2. Scope

- 2.1 The mediation framework applies to all staff and students.

3. Definitions

- 3.1 **Mediation** for the purposes of the mediation framework is defined as a **voluntary** process where an independent (of those involved) and impartial third party (the **mediator**) **facilitates** a conversation, or series of conversations, between two or more people who are in a reported dispute to resolve concerns.
- 3.2 **Coordinators** own the mediation framework, manage access to mediators, decide whether mediation is a suitable tool to resolve any reported dispute, monitor progress and are responsible for overall evaluation of the mediation framework.

4. Mediation Principles

- 4.1 Mediation may be an alternative to progressing an issue in accordance with a formal policy such as the Grievance Policy for staff or Student Misconduct Policy. It may also be a suggested recommendation once a formal review or completion of an issue has been undertaken in accordance with one of the policies. Nothing within the mediation framework prohibits any party to start, or re-start, the formal process at any time.
- 4.2 Mediation:
- Is a confidential process in which there are fewer stakeholders involved and it is likely to be much quicker than formal procedures
 - It can resolve disputes before the relationship between the parties has broken down irrevocably.
 - It clarifies the real issues that need to be addressed.
 - Mediation is more likely to be effective when used at an early stage of conflict, however it can be used following the outcome of a grievance/misconduct process to help re-build a relationship providing both parties are willing to participate.
 - It provides a 'safer space' for conflict to be discussed openly whilst enabling both parties to be heard by each other.
 - It enables the parties in conflict to explore various potential solutions to the problem(s).
 - It enables the parties in conflict to reach solutions that work for them.
 - It focuses on the future
- 4.3 The mediation framework differs from University policies in that involvement in it is voluntary at all stages. Parties who commence mediation may cease mediation, at any stage in the process and continue or initiate the reported dispute process.
- 4.4 Mediation outcomes are not legally binding.
- 4.5 Mediation is confidential. Mediators will, however:
- Report to the Coordinator whether the mediation process has been successful, partially successful or not successful.
 - Report to the Coordinator any gross misconduct (e.g. physical or racial abuse) or serious incident the mediator deems appropriate to report (e.g. a health and safety risk) that occurs during a session or that they become aware of during a session and is relevant to the parties' discussions.

5. Coordinators

- 5.1 The University's Coordinators are:
- For staff mediation: Employee Relations and Policy Managers, HR.
 - For student mediation: Director of Student Discipline and Resolution or the Student Liaison Manager.
- 5.2 Coordinators are owners of the Mediation Framework.
- 5.3 Coordinators are ultimately responsible for selecting and monitoring mediators and the mediation framework. This may be delegated to the Warwick Mediation Team, when they are used.
- 5.4 Coordinators have final decision-making responsibility on all issues relating to mediation.
- 5.5 Coordinators may deem mediation to be unsuitable for a given situation. In which case the reported dispute may need to be investigated through the University's formal processes.

6. Mediators

- 6.1 In all cases where mediation is required, the Coordinator will select a mediator, usually an internal mediator, depending on the nature of the dispute. Coordinators will decide whether an internal or external mediator is suitable.
- 6.2 Mediators will be independent and impartial. Mediators will not work or study in the same department of the University as the parties in dispute and will not have previously worked or studied with any of the parties involved. Parties will be asked if they have an objection to the choice of mediator. All parties are responsible for declaring a conflict of interest to ensure that there is no conflict.
- 6.3 As mediators act confidentially:
- They may take notes during the mediation process, however these will be destroyed at the end of the process.
 - They will not be called as witnesses in the event of any future formal grievance/misconduct procedures.
- 6.4 Mediators will be suitably trained in mediation and hold an appropriate qualification in mediation such as the ACAS Certificate in Workplace Mediation or the Civil Mediation Council.
- 6.5 Mediators have the right to pause or cease the mediation process if they feel mediation is not meeting its aim or is concerned for the health and safety of the participants or if asked to do so by one of the participants.
- 6.6 Mediators may share notes as agreed by both parties, usually during shuttle mediation, between sessions.

7. Alignment to University Policy

- 7.1 This framework further explains mediation as outlined in section 6 of the Staff Grievance policy and section 8 of the Student General Misconduct Policy.

8. Suitability of Mediation

- 8.1 Mediation can be a suitable tool at any stage of conflict although any formal procedures may be paused while mediation takes place. Mediation can occur both ahead of (or instead of) any formal procedure and as an outcome of a formal procedure.
- 8.2 Mediation is more likely to be effective when used at an early stage of conflict, however it can be used following the outcome of a grievance/misconduct process to help re-build a relationship.

- 8.3 Mediation can be used to resolve many types of conflict. Although the Coordinator decides which specific disputes may be offered mediation, some typical examples, although not exhaustive, are:
- Communication problems
 - Bullying and harassment
- 8.4 Mediation may not be suitable where:
- It is used before individuals in conflict have attempted to resolve their differences by themselves or sought the input of their manager/tutor.
 - For staff, where managers are avoiding the requirements of their role to give direction and appropriately follow University disciplinary processes.
 - The outcome must be binary. Mediation is only successful where there is give and take from all parties. In circumstances where there is a need for a dispute to be ruled as 'right' or 'wrong', or 'proven' or 'not proven' then mediation is not appropriate. Mediators do not act as judges.
 - A party, including the University, wishes to have a complaint investigated formally.
 - A party is vulnerable.
 - For staff, the parties do not have the authority or seniority to make decisions about the issue in dispute.
 - One of the parties is unwilling to be flexible, therefore mediation is likely to raise expectations of resolution unfairly.

9. Process

- 9.1 Where parties request mediation or mediation is suggested to parties as part of a formal complaint, the University generally follows the process outlined below, however, this process is flexible to best meet the unique needs of each case.
- 9.2 The Coordinator obtains an overview of the situation which includes but is not exhaustive: the nature of the complaint, the parties involved, methods used to resolve the dispute to date, the desired outcome of the parties.
- 9.3 The Coordinator will decide if mediation is a suitable dispute resolution method at the current time, for the dispute raised. If not, the Coordinator will inform the parties involved.
- 9.4 The Coordinator will, if they deem mediation to be suitable method, seek a mediator. If a mediator is not available, the Coordinator will inform the parties of options which may include an alternative form of dispute resolution.
- 9.5 The Coordinator will appoint a mediator where available.
- 9.6 The mediator will contact the parties involved to introduce themselves and arrange initial meetings.
- 9.7 The mediator will (although the mediator may alter this process based on the needs of the dispute):
- Meet with each party individually. This meeting allows each party to separately explain the situation from their perspective, the issues that require resolution as well as what resolution could look like for them.
 - Either meet with the parties in joint meeting(s) or provide shuttle mediation between the two parties. This allows the parties to:
 - Explore the issues that are causing dispute (the past).
 - Identify all issues that require resolution.

- Explore solutions to each issue.
 - Agree a way forward, which for students may include No Contact Agreements between the parties.
 - Help the parties create a 'contract' or 'agreement'. Written agreements are not legally binding or enforceable by the university, however they can be helpful for some parties to remind themselves of the agreements they have made. The mediator will be led by the parties whether they would like an agreement to be written.
 - Remind all parties that any agreement, whether written or verbal, will be confidential to the participants and not disclosed without the permission of all participants.
- 9.8 If the process outlined in 9.7 is completed, the mediator will advise the Coordinator that the mediation has been successful although they will not disclose details of the agreement without the consent of all participants.
- 9.9 If the process outlined in 9.7 is not completed, the mediator will attempt to obtain agreement from the parties on as many of the issues as possible. This will leave some of the issues unresolved. The mediator advises the Coordinator that the mediation has been partially successful, however the Coordinator will not know if the unresolved issues relate to major or minor issues.
- 9.10 If the process outlined in 9.7 is not completed and no agreement has been met on any issues the mediator advises the Coordinator that the mediation has been not successful.
- 9.11 Mediators can offer individuals a follow up meeting to ensure that the agreement has or is working and whether there are further issues to be explored – this is a good 'check in' mechanism and helps both parties to refocus on repairing the relationship.

10 Mediation Practicalities

Duration

- 10.1 The number of meetings depends on the number and complexity of issues that need to be addressed.
- 10.2 The time between the meetings can be held on the same day or up to a week apart.
- 10.3 The time between the start and end of the mediation process varies depending on factors such as the complexity and number of the issues that require resolution, the time available to discuss issues as well as how quickly the parties move emotionally through the stages of mediation. Typically, mediation takes anywhere between one day and a few weeks.

Location

- 10.4 The location of the mediation will ideally be in an alternative location (building) from the parties' usual environment, or remotely.
- 10.5 Ideally, break-out rooms will also be available for either party to have time-out from the process.
- 10.6 Where the ideal standard outlined in 10.4 and 10.5 cannot be met, the mediation meetings will be held in a private space, away from parties' usual office, study or living space.

Representation

- 10.7 External representation (e.g., family, friends, legal) is not permitted within the mediation meetings. Exclusions apply, such as carers or interpreters.
- 10.8 Mediation aims to allow the parties in dispute to find their own solutions to the issues they face and therefore representatives/supporters (other than interpreters or carers) are not generally encouraged. They may be allowed where all parties (including the Coordinator and mediator) agree, and they must be independent from the issues being raised.

- 10.9 Where internal representation is permitted, the mediator will have a meeting with the representative prior to any joint meeting. The mediator will outline the extent that the representative can take part in joint meetings which is usually restricted to providing emotional support. Representatives, where permitted, cannot suggest solutions to problems or speak on behalf of the party they are representing.

11 Evaluation

- 11.1 The University evaluates the mediation framework to monitor and measure:
- Participant satisfaction
 - User demographics
 - Improvement in relationships
 - Mediator effectiveness
 - Reduction in number of grievance/misconduct cases
- 11.2 After 4-6 weeks the Coordinator will issue feedback questionnaires to the participants to seek feedback on their level of satisfaction with the process, mediator quality and the extent of post-mediation conflict resolution
- 11.3 Participant feedback will be held for no longer than 24 months. It will not be used as part of any other process (e.g., disciplinary). Any data held post-24 months will be anonymised and used for monitoring trends.

Appendix 1: Guidance for potential participants

- 12.1 Taking part in mediation is always voluntary. Although voluntary, both parties should be committed to finding a solution.
- 12.2 Participants can pause or stop the mediation process at any time.
- 12.3 The mediator will ensure that the mediation session(s) are a safe space.
- 12.4 Participants will be made to feel comfortable and safe enough to speak openly about their concerns.
- 12.5 Participants will listen to the other participants (directly or indirectly) with a view to understanding issues from their perspective.
- 12.6 Participants (or anyone else) will not be permitted to record the meeting(s).
- 12.7 Participants will agree to the confidentiality of the meeting(s). The details discussed and the outcome are confidential and should not be disclosed by mediator or the participants involved without the consent of all participants, beyond reporting the fact of agreement where appropriate.