Mediation Policy

INTRODUCTION

1.1. Newcastle University is committed to encouraging harmonious relationships between all members of the University community.

1.2. Where disputes or conflicts do arise, early and effective resolution supports staff and in some cases student, wellbeing and work/academic performance.

1.3. The University provides a Mediation service, developed in conjunction with ACAS, which aims to support the early, local resolution of such conflicts, without recourse to more formal procedures, such as Grievance, Dignity and Respect or Disciplinary.

1.4. Participation in mediation is entirely voluntary and the parties may withdraw at any stage of the process.

1.5. The Mediation scheme is an informal scheme which aims to offer individuals an alternative impartial and confidential framework for resolving conflicts at an early stage. It may also be used as a (voluntary) process to encourage reconciliation in working relationships following more formal actions.

1.6. The University’s Mediation scheme is an internal service. All mediators have been formally trained and accredited by ACAS. It is acknowledged that not all matters are suitable for mediation. The decision regarding suitability will be taken by the Mediation service, and where appropriate, the mediator allocated to a particular case.

1.7. The scheme is an independent and informal process, sitting outside University statutes and other policies.

WHAT IS MEDIATION?

2.1. Mediation is an effective tool in facilitating dispute resolution and positive outcomes in a variety of interpersonal conflict, between both individuals and teams. Its focus is on strengthening future work/academic relationships rather than apportioning blame.
2.2. Mediation brings the individuals in dispute together with an impartial third party (the mediator), in order to find a solution which is acceptable to both parties. Individuals are encouraged to identify the issues and their own solutions and agreements.

“Mediation is a completely voluntary and confidential form of alternative dispute resolution. It involves an independent, impartial person helping two or more individuals or groups reach a solution that is acceptable to everyone […] Mediators do not make judgements or determine outcomes – they ask questions that help to uncover underlying problems, assist the parties to understand the issues and help them to clarify the options for resolving their difference or dispute.” (ACAS, 2014)

2.3. The mediator is a facilitator, and does not express opinions or make judgements.

2.4. Mediation is an informal and completely confidential process. Individuals may make their own written notes or agreements, but any notes made by the mediator will be destroyed following the meeting, and no notes will be kept on file.

**Key principles**

3.1. The key principles that underpin the provision of mediation at the University are as follows:

- Mediation is available to all University staff and, in some circumstances, students including INTO Newcastle, Singapore and Malaysia
- The process is voluntary for all parties
- The process can be tailored to fit the situation and therefore encourages a positive outcome
- Mediation is a mechanism to achieve early dispute resolution between individuals and teams
- The mediation process is facilitated by ACAS accredited, fully trained members of staff
- The mediator will have had no previous involvement in the identified issue and will be impartial
- The mediation process does not apportion blame
- All discussions and agreements remain confidential to the participants at all stages
- Individual staff or students may request mediation directly by contacting the Mediation Coordinator
- The decision regarding suitability will be taken by the Mediation service and is final
- The mediator may stop the process at any time if they feel that resolution cannot be achieved
The participants own the discussion and the outcome, and are responsible for ensuring that any agreement is enacted. The mediator will have no further involvement with the issue or the parties when the mediation has ceased or is complete.

**Scope**

4.1. The mediation service is available to, and this policy applies to, all University staff and in some situations students.

The mediation service is available to all University staff. It is available to students involved in high level conflict, usually this will relate to a conflict between a student and a member of staff, for example a PhD student and their supervisor. Mediation for issues such as conflict within a shared flat would not be considered. Equally conflict between a student and a third party, for example a student and their landlord would not be considered.

**Why use mediation?**

5.1. The key benefits for staff and students of mediation are that it:

- Enables both parties to explain what it is like from their perspective
- Generates mutually agreeable solutions and consequently there are no winners or losers
- Tries to resolve situations where individuals have entrenched positions without apportioning blame
- Is ‘owned’ by individuals, rather than imposed by the University
- Helps to identify and clarify the needs and interests of involved parties
- Enables flexible outcomes as agreements are tailored to meet joint/participant needs
- Creates less pressure for participants than formal procedures such as Grievance, Dignity and Respect
- Is confidential to the parties, no record of the mediation process is taken or kept on individuals’ files

5.2. The key benefits for the University include:

- Reduces communication problems between individuals or teams
- Can break an impasse between individuals or teams by shifting the dynamics and identifying concessions or mutual goals
- Quicker than internal procedures or litigation

**Confidentiality**

6.1. Mediation meetings are confidential. Discussion within the meeting/s and any subsequent outcomes will be known only to the participants and the independent mediator. Line managers, tutors, Human Resources etc. will not be privy to the process or its outcomes unless the parties request it.
6.2. Any notes made by the mediator will be destroyed after the session is complete.

6.3. An exception to strict confidentiality will only be made where serious harassment or bullying has occurred, a potentially dangerous risk to health and safety has been identified, or the possibility of an illegal act is considered possible or has occurred. In this event, the mediation process will be terminated and the Mediation Co-ordinator will be advised.

6.4. Dependent upon the circumstances the Co-ordinator will refer internally e.g. serious misconduct that warrants investigation under the relevant disciplinary procedure or externally to the police e.g. where it is alleged that criminal activity may have taken place.

6.5. If any issues related to those discussed during the mediation process subsequently result in formal procedures being invoked (e.g. Disciplinary, Grievance), the content including the outcome of the mediation process will be inadmissible in any subsequent investigation or hearing.

6.6. In the event of any future legal proceedings being initiated mediation is considered to be inadmissible, the mediator will not be available to give opinion or act as a witness and no report from the mediation will be made available.

**THE MEDIATION PROCESS**

7.1. The University Mediation scheme is based upon the ACAS five stage process detailed below and normally requires the participants to attend two meetings, these normally happen within a short period of time, ideally within a couple of days of each other. Separate meetings are held between the individual parties and the mediator and should the matter be considered suitable for mediation and both parties are in agreement to progress, then a second joint meeting will be held between the mediator and the two individual parties. Stage 1 is covered in the initial individual meeting between the mediator and both parties separately and stages 2-5 in the second joint meeting between both parties and the mediator.

7.1.1. **First contact with individuals**

The mediator meets individually with the parties involved, to explain the process, hear their side of the story, and to assess their expectations. Providing the mediator feels that mediation is appropriate then stage 2 commences.

7.1.2. **Hearing the issues**

The mediator meets jointly with all participants, and invites them to put their side of the story during a period of uninterrupted time. In rare cases, shuttle mediation may be appropriate, where the mediator speaks to each party in turn, in separate rooms. In this case, it is hoped that the
mediation will move to a face to face meeting within the session. The mediator will begin to summarise the main areas of agreement and disagreement, and draw up an agenda with the parties for the rest of the mediation.

7.1.3. Exploring the issues

The mediator encourages communication between the parties, promoting understanding and empathy and changing perceptions. The aim of this stage of the mediation is to shift the focus from the past to the future, and the identification of constructive solutions.

7.1.4. Building and writing an agreement

The mediator encourages and supports joint problem solving by the parties, and ensures that solutions and agreements are workable. This normally includes changes/actions/omissions by both parties. The parties may choose to have a written agreement and in such cases the agreement is recorded by the mediator, who will check their understanding with the participants, to ensure that they are fully signed up to making any necessary changes. Alternatively the parties may agree next steps verbally.

7.1.5. Closing the mediation

When an agreement has been reached, the mediator will summarise and bring the mediation to a close. A copy of the agreed statement will be provided to each party, and their responsibilities for its implementation detailed and explained. Exceptionally plans may be made for a further meeting between the parties and the mediator, although usually this is not necessary. In the event that an agreement is not reached, the participants may choose to seek formal resolution. In this case, nothing which has been discussed during the mediation may be used in future proceedings.

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<th>Effective Date</th>
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<tr>
<td>Approval</td>
<td>Staff Committee 23 June 2015</td>
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<td>ULTSEC 9 December 2015</td>
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<td>Policy/Procedure Owner</td>
<td>Louise Edwards-Holland</td>
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The mediation process consists of a number of stages, from identification of need through to resolution.

**Figure 1**

Individual requests Mediation via Coordinator / Supervisor, or Mediation is requested by Supervisor/Manager for Staff, or DPD/Dean for Students

Mediation Coordinator Allocates Mediator to Case

Mediator Invites Other Party to Mediation

**Preliminary Meeting**
- Meeting with Party 1
- Meeting with Party 2

**Mediation Meeting**
- Hearing of Issues
- Exploring Issues
- Building an Agreement
- Closing the Mediation

**Improved Work/Study Relationship**

Mediation not suitable. Let referrer know and advise that other procedures be considered/continued (e.g. grievance, student complaint procedure)