

Policy

Mediation @ Bucks

Policy and Procedures

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Forms

- Form 1: Workplace Mediation Referral Form
- Form 2: Introducing Mediation to the Participants: A guide for HR, Line Managers and others seeking to make a referral

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Introduction

- 1 Mediation @ Bucks is open to all staff and students of the institution and is completely free and confidential.
- 2 Bucks New University is committed to the goal of fostering mutual respect and understanding between individuals throughout the institution.
- 3 Bucks New University recognises that a positive working environment and good working relationships relate directly to the wellbeing of staff and students.
- 4 Bucks New University also recognises that occasional conflict is normal. When conflict does happen, we wish to support those involved to work together to resolve any disputes and conflicts constructively and speedily.
- 5 The aim of this policy is to provide individuals or groups with a framework for resolving conflicts in a way which is impartial and objective, and works alongside other University policy and procedures.

Definition

- 6 Mediation is a process whereby parties that are in dispute meet and utilise an independent mediator to work out a solution together. Mediation is voluntary and will take place only where all parties involved in the dispute agree to it. Mediation offers an opportunity for parties to examine the relationship, their concerns and their needs. It is then about rebuilding relationships, rather than apportioning blame. Mediators support all parties to focus on the future.

Mediation @ Bucks – the scheme

- 7 Bucks New University has established an internal mediation scheme and we have recruited a team of internal mediators. Our mediators have been trained to an accredited standard and have been awarded the ***National Certificate in Workplace Mediation***.
- 8 Our preference is to utilise our internal team, however, in some cases it may be necessary to use an external and independent mediator.
- 9 Mediation cases will be referred to the Scheme Co-ordinator – Kate Hughes, Suzanne Doria.
- 10 The **Scheme Co-ordinator's** function is to oversee the entire internal mediation scheme, from the building stage through to the maintaining and evaluating stages. The Scheme Co-ordinator administers and manages the mediation case management system, ensures that their mediators receive adequate support and supervision and co-ordinates their continuing professional development.
- 11 Mediation can be used at any stage in a dispute but is often most effective if used early or before conflict escalates.
- 12 Mediation can be used at the same time as other procedures, so for instance a staff member who has a grievance can employ mediation to try to resolve the matter, or a

student who has made a complaint can consider trying mediation as a means to achieving the outcome they are hoping for.

- 13 Mediation is most effective when:
- Both parties are willing to work together to try and resolve their differences
 - Room exists for an improvement in relationships
 - No serious breaches of policy or procedures have occurred¹
- 14 The mediator does not tell the parties what to do but rather facilitates a mutually acceptable agreement between the parties. Mediation is voluntary, it is not legally binding and information shared during mediation cannot be used in future formal legal procedures.
- 15 The actual mediation session usually takes one full day, and will take place on University premises unless exceptional circumstances apply.

When mediation may be used

- 16 Mediation may be suitable to:
- resolve conflict involving staff and staff, staff and student, or student and student;
 - resolve conflict involving colleagues of a similar job or grade, or between a line manager and their staff;
 - rebuild relationships after a formal complaint or dispute has been resolved; and
 - address a range of issues, including relationship breakdown, personality clashes, communication problems, bullying and harassment.
- 17 Mediation may not be suitable:
- when used as a first resort, as parties should speak to the other person involved before seeking a solution through formal mediation;
 - to be used to avoid formal student disciplinary action;
 - when used by a manager to avoid their managerial responsibilities;
 - where a decision about right or wrong is genuinely required to resolve a dispute (for example, where there is possible criminal activity); and
 - if an individual raising discrimination or harassment concerns requires the allegations to be investigated

¹ Breaches of legislation or incidents of physical or verbal abuse should be dealt with under the appropriate University Student or Employee Disciplinary policy

How mediation can help – 2 case studies

1, Communication issues between line manager and employee

A team member was having difficulties with her supervisor and had tried on numerous occasions to approach him to explain her viewpoint. The two were locked into an ongoing dispute about their respective roles, responsibilities and performance.

Both agreed to take part in mediation, and as a first step, met individually with mediators at a neutral venue away from their workstations. At these meetings, both spoke freely about their various concerns.

At a subsequent joint meeting to explore issues raised in the earlier interviews, other issues emerged which had a direct bearing on the team member's situation. As the meeting progressed, a series of possible practical outcomes from the meeting were suggested and then examined by both parties, a process given clarity, but not direction, by the mediators.

The meeting marked a turning point in establishing a better working relationship between the two, setting in place more honest and open communication than had previously been possible.

2, Students sharing a kitchen

A student is having problems in her privately rented property, specifically with the shared kitchen. Ever since she arrived one of the other students made negative comments about her food, the look of it and the smell. She got very upset and tried to eat at different times when the other residents were out, but they were often around and she didn't want to just eat cold snacks.

She spoke to her personal tutor who referred her to the Mediation @ Bucks Scheme Co-ordinator. The Mediation Scheme Co-ordinator reviewed the case and agreed to refer it to the mediation process. Two mediators were allocated to co-mediate the case. The mediators met with her and she explained her feelings about the situation and what she would like to happen.

At first the other members of the kitchen group were reluctant to take part in the mediation but after discussion also agreed to take part. Following the round table mediation session with all parties concerned, the kitchen group built up an understanding and a way forward together.

The mediation process

- 18 Parties may be referred to the mediation process, or it may be suggested that it is used in some cases of formal complaints or disciplinary and grievance matters. If you would like to discuss this further please contact the Scheme Co-ordinator, your HR Business Partner, or the SU Advice Centre.
- 19 Mediation does not replace the University's other procedures, but may be adopted only where it is agreed that the matter might be best resolved through mediation at an early stage.
- 20 When a referral has been made, line managers, course leaders and other similar parties must ensure that the staff member or student involved is available and will be required to release them for the full period of the mediation process.
- 21 If mediation is agreed, any other procedure may be suspended at the discretion of the Scheme Co-ordinator. In the event that mediation does not resolve the dispute, the other procedure shall immediately be reinstated at the conclusion of the mediation.
- 22 Mediation is a fully confidential service, and all conversations will be held on a 'without prejudice' and 'privileged' basis, meaning nothing said by anyone in the process can be put forward as evidence in any subsequent disciplinary, grievance, appeal or employment tribunal action.
- 23 At the end of mediation the parties may agree to produce a short written agreement. However, all other notes or paperwork created by the parties, their representatives, and the mediator must be destroyed at the conclusion of the process. The agreement may be shared when appropriate, and with the consent of all parties involved, with the line manager, course leader or similar.
- 24 Mediators are unable to:
 - Give evidence about mediation to any formal or informal hearing or investigation.
 - Make a statement at any time after mediation relating to any issues arising from or during mediation (with the exception of an investigation into a serious criminal offence).
- 25 Unless directly involved as a party to mediation, line management and HR will have no direct role in the process. However, after mediation is concluded line managers and HR Business Partners can play an active role in supporting the parties to sustain their relationship.

Confidentiality

- 26 Parties are asked to sign a confidentiality agreement before mediation commences. Bucks New University mediators do not disclose anything that has been said during mediation. If agreed by both parties, Bucks New University mediators provide a copy of the final agreement to the person who requested mediation, to enable that person to continue to manage the situation. Bucks New University mediators destroy all notes from the mediation at the end of the process. Other than a copy of the agreement, we do not keep any records of the mediation process. Bucks New University mediators will not provide evidence at any subsequent internal processes.

Mediation Procedures

- 27 An appropriate person will complete a referral form; this might be a line manager in the case of staff members, or a course leader or other similar role in the case of students. See Form 1 for the template referral form which should be emailed to the Scheme Co-ordinator, or the appropriate HR Business Partner when it is completed.
- 28 If mediation appears to be suitable the Scheme Co-ordinator will appoint a mediator to the case within 5 working days of receiving the referral request.
- 29 The Scheme Co-ordinator will prepare and send a mediation pack to the parties and a copy to the mediator. The pack will include a confidentiality form and a questionnaire which the parties should complete and take to the mediation meeting.
- 30 The Scheme Co-ordinator will also send include information confirming the date, time and place the mediation will take place. Please note that due to difficulties with securing appropriate rooms for mediation, a slight delay may be unavoidable.
- 31 See Appendix 3: Setting the Scene, for more information on what happens next.

Referral accepted

- 32 When the mediator has accepted the case, they will then contact all parties by phone and explain:
 - The principles and processes of mediation
 - Whether a co-mediator will be present²
 - More details about how the process will work
 - A schedule for the day
 - A confidentiality agreement to be signed and brought to the mediation
 - A short 'your goals for mediation' questionnaire, also to be brought to the mediation

Referral not accepted

- 33 If the mediator decides that a referral is not suitable for mediation, they will send a notification giving the reasons for their decision to the Scheme Coordinator who will inform the parties.

Retention of records

- 34 Any written agreement should be retained by the parties to mediation. The mediator and parties will collect and destroy all other notes and documentation arising during mediation.
- 35 For more information about the service and or to refer a case please contact the Scheme Coordinator, Jean Whitehouse.
- 36 **Follow up:** The mediators will agree a period of follow up and after care with the parties at the conclusion of mediation. The usual period of follow up is one, three, six and 12 months, although this may occasionally vary.

² Normally mediation @ Bucks sessions will be facilitated by two mediators.

Appendix 1: Mediation FAQs

What is mediation?

Mediation is a process of dispute resolution in which an impartial third party (the mediator) facilitates a series of private and joint meetings with the parties to identify a mutually acceptable and appropriate resolution. Mediation is a voluntary, non-binding process which addresses the underlying (root) causes of conflict or tension. Mediators create the conditions for dialogue using a non-adversarial, non-partisan approach. The final outcome of mediation is agreed by the parties, not the mediator.

How can I use mediation?

Mediation can be considered for use by anyone who is experiencing a conflict or a dispute at University. If you wish to use mediation, it is generally advisable to speak with an HR Business Partner, University Student Resolution Officer, or an SU Adviser in the first instance.

How long does mediation last?

Mediation tends to last for one full day. However, in more complex cases or cases involving more than two parties, it may last for up to two or three days.

Do mediators tell people what to do?

No. Mediators do not tell parties what to do. Mediators do not judge who is right or wrong nor do they impose a settlement or solution. However, mediators may ask all parties challenging and difficult questions during mediation relating to the nature of the conflict, the impact of the conflict and the steps required to reach a resolution.

Can I have someone with me during the mediation?

No - whilst we recognise that parties may wish to have someone with them, the mediators will create an environment where parties do not need to bring anyone else to support them.

Is mediation voluntary?

Yes, we will check with you at the outset that you have entered into the process freely and voluntarily. We do not force, trick or coerce people to engage in mediation.

Is mediation confidential?

Yes. Parties are asked to sign a confidentiality agreement before mediation commences. Bucks New University mediators do not disclose anything that has been said during mediation. If agreed by both parties, Bucks New University mediators provide a copy of the final agreement to the person who requested mediation, to enable that person to continue to manage the situation. Bucks New University mediators destroy all notes from the mediation at the end of the process. Other than a copy of the agreement, we do not keep any records of the mediation process. Bucks New University mediators will not provide evidence at any subsequent internal processes.

Where does mediation happen?

Mediation takes place in a neutral venue comprising of three rooms. Each party has their own private room for the entire day and there is a separate room for the joint meetings.

Why does the mediator meet the parties separately?

Having separate meetings with the mediator gives all parties the chance to talk about the conflict from their point of view. The mediator listens to what all parties say and they explore how the parties feel, what their concerns are and what their underlying needs are. The mediator and the parties explore the conflict from three perspectives: 1) the past, 2) the present and 3) the future.

What happens at the end of mediation?

At the end of mediation, the parties will hopefully have reached a resolution to the dispute including a number of points of agreement. These will be typed up and given to the parties (usually on the same day). Bucks New University offers ongoing support and the mediator will contact all parties at one, three, six and twelve months after mediation to 'check in' and evaluate progress. In some cases, we also offer further mediation meetings.

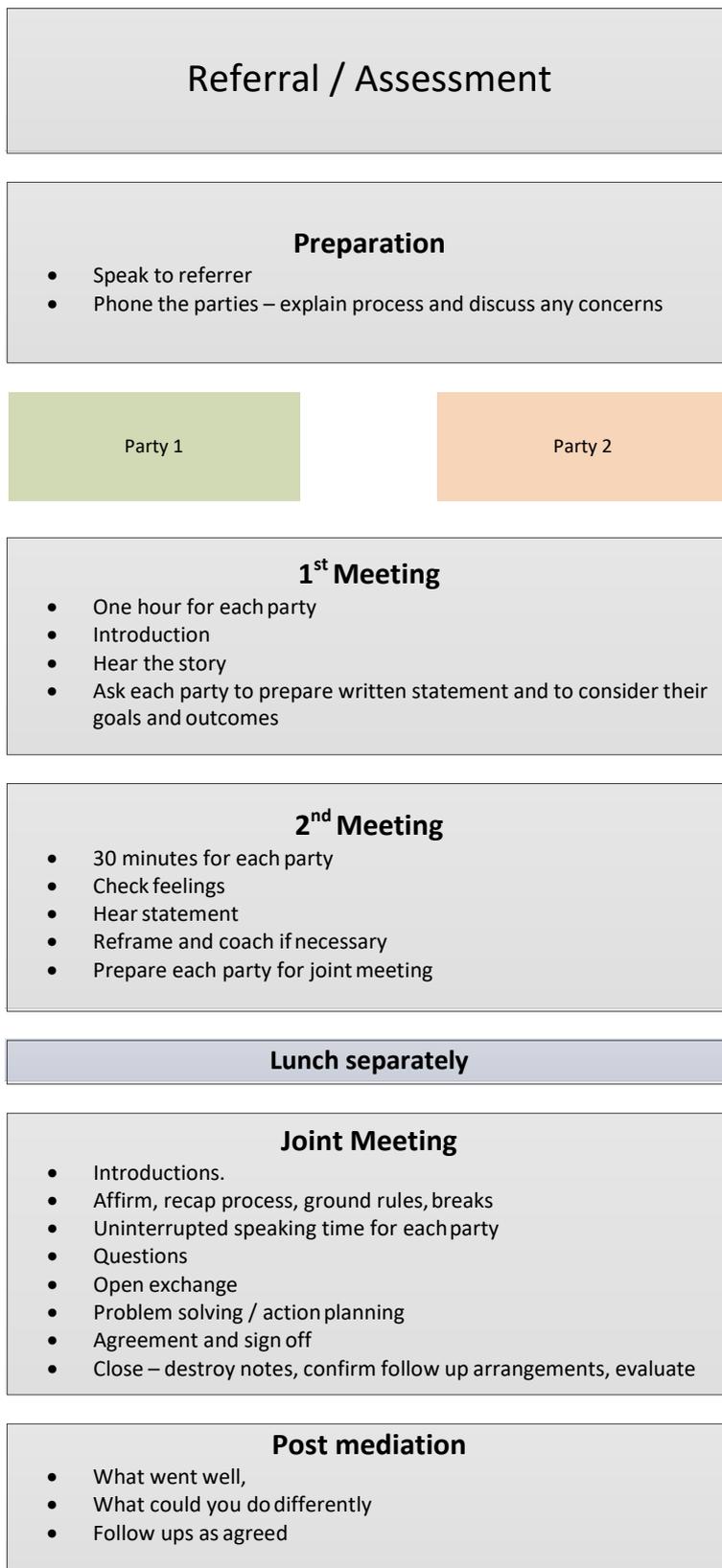
Does mediation really work?

Yes, however for mediation to work it requires a commitment from all parties. By entering into mediation with the right mind-set - with a willingness to listen to each other; to be mutually respectful; to challenge and be challenged and to seek a new way of working together - there is every chance that mediation will work.

Can a decision not to refer or accept a case for mediation be appealed?

No. Reasons will be given for the decision not to accept a case for mediation at the time.

Appendix 2: The Mediation Scheme Process



Appendix 3: Setting the Scene

- 1 As far as possible we mediate across a whole day. At the start of the day the Mediators will meet each party separately; usually for around an hour. The parties should bring their 'Goals for Mediation' form and Confidentiality Agreement with them to this meeting.
- 2 This meeting enables the Mediators to understand the situation, acknowledge individuals' feelings and to build trust and rapport with both parties.
- 3 The Mediators will also confirm their role in the process; they are there to facilitate the process. They are not there to make any decisions, or tell either party what to do, but will work actively with both parties so that they can collaboratively find a resolution to the situation.
- 4 The purpose of this meeting is to:
 - a Explain and clarify to each party the role of the mediators and the mediation process;
 - b Consider the various elements of the dispute and the impact on the individuals involved;
 - c Identify, through a process of active listening, the history of the situation as well as participants' future needs and expectations;
 - d Discuss participants goals for mediation;
 - e Agree terms of reference for the mediation process, which the parties are able to commit to.

After a short break a second individual meeting may take place

- 5 In this instance the meeting is usually a lot shorter and allows for:
 - a Exploration, in more detail, of any of the issues raised at the first meeting;
 - b Sharing of any additional issues from each participants point of view;
 - c The opportunity for both parties to identify a potential way forward for the joint meeting and for the Mediators to develop an agenda;
 - d 'Testing' of what each party may wish to say, on a neutral third person, before the joint meeting.

Exploring the issues

- 6 It is important for the effectiveness of mediation that the joint meeting takes place in a timely fashion. Therefore, the joint meeting will be arranged as soon as possible after the individual meeting, and usually within four weeks of both parties agreeing to mediation. In most situations we try to ensure all meetings happen on the same day; the individual meetings in the morning and the joint meeting in the afternoon.
- 7 The Mediators will open the meeting and explain the ground rules for the mediation, including the purpose of the joint meeting and, if one has been drawn up, an agenda for the meeting.
- 8 The purpose of the joint meeting is to:
 - a Establish a safe and structured environment where all parties can meet to engage in open and honest dialogue;

- b Allow both parties the opportunity for uninterrupted speaking time to explain their position and feelings;
 - c Allow both parties to listen to each other, to respect their points of view and their right to voice it;
 - d Evaluate all available options and ultimately arrive at a realistic, manageable and agreed outcome;
 - e Develop an action plan and agreement about how best to work together, and;
 - f Consider any long term requirements and follow up arrangements.
- 9 The joint meeting is the most important part of the mediation process and it will follow a structured process with simple and effective guidelines. This process will be facilitated by the Mediators; but it is about the commitment that both parties clearly have towards a positive and realistic outcome to the situation; it is based around collaboration between the two parties.
- 10 Once the Mediators have confirmed the meeting outline, both parties will be given the opportunity to tell their story; to have uninterrupted speaking time. Both parties will have prepared for this, with support from the Mediators, as it can be hard to say what you want to say when you feel tense.
- 11 Throughout the meeting, the Mediators will ensure the ground rules are adhered to, will listen carefully, ask any open questions as needed and summarise what is being said. They will lead the meeting in a positive manner and ensure everyone's point of view is considered.
- 12 At times the Mediators may also ask for a 'time-out'. This is when the meeting is not stopped, but allows the parties to break into one-to-one meetings to, perhaps, consider a difficult issue which requires personal consideration, or if there are difficult or challenging behaviours. The aim here is not to interrupt the flow of the process but instead allow both parties time to think and reflect and have some space from what can be a difficult situation.

Building Agreement

- 13 As the meeting develops, the Mediators will help the parties to generate and assess the viability of possible options for building a way forward.
- 14 This could be done through problem solving or brainstorming exercises and as different options are discussed and considered, the Mediators will summarise the options available.
- 15 At the options are discussed, and an area of agreement is reached, the Mediators will help both parties to draw up an action plan, securing the agreement.

Closure

- 16 At this stage the Mediators will draw up the agreement and ask both parties to sign it; confirming their commitment to resolving the issue. Both parties will be given a copy of the agreement to take away with them.
- 17 The Mediators will then close the meeting, focusing on the areas of agreement and the positives taken from the session. They will discuss any possible follow up arrangements or further action that may be needed and re-confirm the confidential nature of the process.

- 18 If it has not been possible to reach an agreement through the mediation process then the Mediators will attempt to gain agreement from the parties as to what the issues are and to how they will proceed in the future.
- 19 At the close of the meeting, the Mediators will also collect any notes made during the meeting ready to be destroyed.