



Blackthorn Resolute

MEDIATION GUIDE SERIES · GUIDE 03 OF 04

Facing a Disciplinary Hearing? What Mediation Can (and Can't) Do

How mediation fits around a workplace disciplinary process, and the steps to take if you want to resolve things before, during or instead of a formal hearing.

A PRACTICAL, NON-CRIMINAL DISPUTE GUIDE
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UNDERSTANDING THE PROCESS

What Mediation Is — and When to Use It

A disciplinary hearing is a formal internal process where an employer decides whether conduct or performance issues warrant a sanction, up to and including dismissal.

Mediation is a separate, informal, confidential process that can sometimes run alongside or before that formal process — not as a replacement for due process, but as a way to resolve the underlying relationship or misunderstanding where that's realistically possible.

It applies to non-criminal workplace conduct issues; matters involving suspected criminal activity are handled through different channels entirely.

CONSIDER MEDIATION WHEN • The issue stems from a breakdown in communication rather than serious misconduct • Both you and your manager want to avoid a formal process if it can genuinely be resolved • HR has flagged mediation as an option before a hearing is scheduled • You've been through a hearing and want to repair the working relationship afterward • The complaint is disputed and a facilitated conversation might clarify what actually happened	GOOD TO KNOW Mediation is not a substitute for your right to a fair disciplinary process — notice of allegations, time to prepare, the right to be accompanied, and a right of appeal. Where a matter is genuinely serious, most employers will run the formal process regardless of whether mediation is also offered.
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Why it exists

Not every disciplinary matter needs a formal hearing to reach a fair outcome. Where the underlying issue is a misunderstanding, a one-off lapse, or a relationship that has broken down rather than genuine serious misconduct, mediation gives both employer and employee a way to resolve it directly — often preserving the employment relationship a formal sanction would end.

WHEN THE DISPUTE ARISES

What To Do, Step by Step

01 Understand exactly what you're being told

Get the allegation in writing if it isn't already, including specific incidents and dates. You can't assess whether mediation is appropriate until you know precisely what's being alleged.

02 Ask whether mediation is an option at this stage

Ask HR directly whether your employer's policy allows mediation before a formal hearing is convened, or only afterward. Timing varies a lot by organisation and by how serious the matter is.

03 Get advice before agreeing to anything

Speak to a union representative, colleague, or independent adviser before agreeing to mediation in place of a hearing, so you understand what rights you might be pausing or exercising by doing so.

04 Confirm what mediation would and wouldn't change

Clarify in writing whether a successful mediation would end the disciplinary process, downgrade it, or simply run in parallel. Don't assume — ask explicitly.

05 Prepare your account of events factually

Write down your version of events, focusing on facts, sequence and context rather than justifications alone. This helps you present clearly rather than defensively in the room.

06 Attend the mediation with a clear goal

Be specific about what outcome you're hoping for — a withdrawn allegation, a lesser informal outcome, or simply a repaired working relationship going forward — and say so early in the session.

07 Get any agreement confirmed in writing

If mediation resolves the matter, get written confirmation of what happens to the disciplinary process as a result, signed off by HR, not just a verbal understanding.

08 Know your fallback if it doesn't resolve

If mediation doesn't work, confirm the disciplinary process continues on its normal footing, with your full rights — representation, evidence, appeal — intact.

GETTING READY

How to Prepare & What Happens Next

Bring / prepare this before your session

- ☐ The written allegation or disciplinary notice, if issued
- ☐ Your own factual, dated account of the relevant events
- ☐ Any relevant emails, messages or documents supporting your account
- ☐ Written confirmation of how mediation affects the disciplinary timeline
- ☐ Contact for a union rep, colleague or adviser to consult beforehand
- ☐ A clear, specific outcome you want to propose in the session

Inside the mediation

Expect a structured, fairly formal session compared to other types of workplace mediation, given the process it sits alongside. The mediator will still not decide guilt or innocence — that stays with the disciplinary process if it continues. Their role is to help both sides understand what happened, test whether a lesser or informal resolution is genuinely workable, and document whatever is agreed clearly enough that HR can act on it.

Possible outcomes

The disciplinary process is paused or withdrawn following an agreed resolution; the matter proceeds to a formal hearing regardless, with mediation having at least clarified the facts; or a downgraded, informal outcome is agreed (such as a documented conversation rather than a formal warning). Which of these is possible depends entirely on your employer's policy and the seriousness of the allegation.

BEFORE YOU GO IN

Common mistakes to avoid

- ✗ Agreeing to mediation instead of a hearing without understanding what right you're giving up
- ✗ Treating the mediation as the disciplinary hearing itself, when it isn't
- ✗ Going in without a written account of your version of events
- ✗ Not clarifying in advance what a successful outcome would actually change
- ✗ Skipping advice from a union rep or colleague before agreeing to anything

Frequently asked questions

Can mediation replace a disciplinary hearing entirely?

Sometimes, for less serious matters, if your employer's policy allows it and both sides agree. For serious misconduct, most employers will still require a formal hearing regardless of mediation.

Do I still get a right to appeal if we mediate?

If mediation ends the disciplinary process by agreement, there's typically nothing to appeal. If a hearing still goes ahead afterward, your normal appeal rights apply to its outcome.

Can I bring a union rep or colleague to mediation?

Policies vary; some workplace mediations are just the two parties and the mediator, while others allow a support person. Confirm this before the session, not on the day.

Will anything said in mediation be used against me at the hearing?

Generally mediation is treated as separate and confidential from any subsequent formal process, but you should get this confirmed explicitly by HR before you speak openly.

What if I don't think mediation is appropriate for my situation?

You can say so. Mediation is generally voluntary, and it's reasonable to ask for the formal process instead if you believe the allegation needs to be tested formally.

Contact us

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Not legal advice. This guide explains how mediation can interact with disciplinary processes in general terms and is for general educational purposes only. Disciplinary procedures, employee rights and the availability of mediation vary significantly by country, sector and employer policy. Seek independent or union advice before agreeing to any change in your disciplinary process.