Mediation Procedure

Human Resources
1 Introduction

1.1 Manchester Metropolitan University is committed to encouraging harmonious working relationships between colleagues. The University also recognises that conflict in the workplace occasionally occurs and when it does staff and managers should be supported to work together to resolve disputes and conflicts.

1.2 Mediation is proven to be an effective tool for resolving conflicts between individuals or teams at work. Where resolution cannot be achieved informally, the University has both formal and informal processes to deal with conflict resolution.

1.3 The addition of a mediation scheme to the University’s procedures increases the choices available to individuals in dispute. It offers a more creative way for participants to resolve their concerns through collaborative problem solving. Mediation is a versatile process that can be used not only as an alternative to formal grievance procedures, but also as a rapid first intervention to prevent escalation of a dispute or even to repair the working relationship after formal procedures have been concluded.

2 Purpose

2.1 To provide individuals with an objective and impartial framework for resolving conflicts at an early stage.

2.2 To offer an alternative first stage for resolving conflict and also to make available a process for reconciling working relationships following a formal hearing.

3 Scope

3.1 This procedure applies to staff. (It does not deal with issues arising between a staff member and a student).

4 Definition

4.1 Mediation can be defined as a voluntary dispute resolution process where an impartial third party helps two individuals or groups who are in conflict to agree a solution that is acceptable to them both.

4.2 Mediation is most effective when:

- Both parties are willing to work together to resolve their differences
- Room exists for an improvement in working relationships
- Allegations and counter allegations have been made
- There is dispute over a workplace situation
- No serious breaches of University policy or procedures have occurred.¹

4.3 Most kinds of dispute can be mediated if those involved want to find a way forward. Mediation is especially suitable when the aim is to maintain the employment relationship. It can be used at any stage in a dispute but is often most effective if used early on.

4.4 The Mediator does not tell the parties what to do but rather acts as a broker of a settlement agreed by the parties. Mediation is voluntary.

¹Any serious breaches of legislation or University Policies should be dealt with under the University’s Disciplinary Policy.
5 Principles of Mediation

5.1 Confidentiality Statement. If you are considering using the Mediation Service, this confidentiality statement and the policy document should be read first as they form part of the terms and conditions when you participate in the mediation process.

5.2 Staff involved in the mediation process will not pass on personal information about you (including information relating to attending an appointment or joint mediation session) to anyone outside the mediation process (including your manager, University staff, relatives, friends or external agencies) without your express permission.

5.3 We will consult with you and seek to obtain your consent prior to the disclosure of any personal information if this information is deemed necessary.

5.4 However if any information which has been disclosed falls under the following categories:

- where there is a legal requirement to disclose information (e.g. the Children Act 1989, Prevention of Terrorism Act 2005 or The Proceeds of Crime Act 2002)
- when there are clear indications that you present a serious risk of harm to yourself or others or to the standing of the University
- when we may be required to do so by university rules or policies

Information will be disclosed without your consent to the HR Mediation Service Co-ordinator who will then take appropriate action.

6 Principles

6.1 Where there is conflict in working relationships, colleagues may choose to participate in mediation as a means of resolution. Mediation is voluntary and staff will not be forced to participate.

6.2 Mediation will normally be initiated by the parties following consultation with their line manager, although self-referral is also an option. Following the referral, the appointed mediator will meet with both parties to ascertain the viability of proceeding with the mediation.

6.3 The appointed mediator will be independent of both parties and have no vested interest in the outcome.

6.4 The mediation process is confidential to all parties. The only exception to this rule of strict confidentiality is where there is a potential unlawful act or where there is evidence of serious risk to health and safety or to the standing of the University. In these circumstances the process will be terminated. Information (including documents) may in these cases be supplied to others.

6.5 As mediation is a confidential process, there will be no direct involvement/accompaniment of/by other parties during the mediation process other than in exceptional circumstances and at the discretion of the mediator.

6.6 If a referral is made by a third party (i.e. not self-referral) that party will be advised when the process has been completed, but not provided with details of the agreement.

6.7 Agreeing to mediation does not take away an individual’s right to access other HR procedures, however, information revealed or discussed during mediation will not normally be admissible in such cases.

6.8 Once resolution has been achieved, an agreement will be signed by both parties. This remains confidential between the parties and the mediator. If the agreement contains items requiring support from a line manager (e.g. training) both parties must agree how this will be handled and include it in the agreement, and confirmation from the appropriate manager must be given.
7 Where Does Mediation Fit In?

7.1 To maximise the opportunity for successful resolution, mediation is available during the grievance and dignity and work procedures (without detriment to the individuals if it is unsuccessful) and in some cases following the conclusion of these procedures, as it gives the parties the opportunity to repair their employment relationship and agree how future interactions will be handled.

7.2 Mediation is also beneficial for general conflict in the workplace (perhaps where this is affecting two members of a team, or team morale as a whole) where the situation would never escalate to the grievance stage.

7.3 Where mediation is agreed part way through the grievance procedure, the formal procedure will be suspended. The grievance can be resumed if the mediation is unsuccessful.

8 The Mediation Process

8.1 Irrespective of who suggests mediation, it is still a voluntary process which can only be entered into with the agreement of both parties. All requests for mediation must be made via the Employee Relations Manager in their role HR Mediation Facilitator; mediators should not be approached directly. Any mediator who is approached directly should pass the referral to the HR Mediation Facilitator.

8.2 The University mediation process follows a five stage model and is facilitative in nature.

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8.3 **Stage 1 - First contact with participants** (Individual meetings)
The first meeting with participants occurs on an individual basis, enabling the mediator to acknowledge individual feelings and to build trust and rapport with each of the parties. The mediator will explain the process, their own role, the mediation ground-rules and what will be expected of each party during the mediation. The mediator will explore the background to the dispute, identifying what each party would like to achieve from the process. If after an assessment of the issues, the mediator feels it appropriate to do so, he or she will seek permission to proceed with the joint meeting and will outline the subsequent stages of the process, identifying an appropriate time and location for the joint meeting. (The mediator may need to communicate with either or both parties again (before the joint meeting) to clarify particular points).
8.4 **Stage 2 - Joint meeting - Setting the scene**

The mediator will commence the meeting with introductions and make an opening statement to set the scene. This will include an explanation of the ground rules and the steps involved in the mediation. Each party will then be invited to explain their position during a period of uninterrupted time. Following the initial statements, the mediator will summarise the position and will work towards the agreement of an agenda.

8.5 **Stage 3 - Exploring the issues**

Having agreed an agenda, the mediator will identify areas of concern and begin to explore the issues with the parties, promoting open and honest communication and encouraging them to see the other’s perspective. The focus at this stage is to encourage communication and through appropriate questioning and summarising to check understanding, clarify assumptions and to acknowledge and move on from differences.

8.6 **Stage 4 - Building the agreement**

As the process develops, the mediator will help the parties to generate and assess the viability of options. As an area of agreement is reached, the mediator will clearly articulate this, secure agreement from both parties and record it.

8.7 **Stage 5 - Closure**

Once an agreement on all of the issues has been reached, the mediator will give a copy of the agreement to both parties, clarifying their responsibility for its delivery. At this stage, the meeting will be concluded by the mediator who will re-confirm the confidentiality of the process. If no agreement over the issues is reached, the mediator will attempt to gain agreement from the parties as to what the issues are and how they will proceed in the future.

8.8 **Post mediation – evaluation**

It is the intention of the University to monitor the impact and effectiveness of the mediation scheme. Accordingly, the parties will be given the opportunity to complete an evaluation of the mediator and the mediation process. The mediator will also undertake a process of self-evaluation, feeding any suggestions for improvements to the HR Mediation Facilitator. Evaluation material will be collated by the HR Mediation Facilitator and treated in the strictest confidence. No personal information will be revealed as part of this process.

8.9 There is no appeal process associated with mediation.

8.10 If participants require mediation in the future related to the same or a similar matter they are welcome to make a request directly to their HR Advisor.

### 9 Roles and Responsibilities

**9.1 The HR Mediation Facilitator’s responsibilities**

- Act as first point of contact for staff/line managers with potential cases
- Advise above mentioned parties of most suitable course of action
- Answer questions/provide advice in relation to general mediation questions
- Notify and appoint mediators to cases
- Manage the mediation evaluation process
- Handle complaints relating to the mediation scheme (complaints relating to the HR Mediation Facilitator should be made to the Head of Employee Relations)
- Collate and distribute updates re mediation
9.2 Mediator’s Responsibilities

- Successfully complete accredited mediation training
- Be aware of and keep up to date with ACAS guidelines in relation to mediation as supplied by the HR Mediation Facilitator
- Participate in mediator supervision / debriefing sessions
- Maintain a high quality mediation process, protecting its integrity
- The mediator has the right to refuse to mediate (e.g. if they feel that an individual has been forced to participate or is attempting to use the mediation to their own advantage) and should record their reasons for doing so in the mediator evaluation form.
- Employ the principles of equality and diversity throughout the process
- Complete associated administrative work – e.g. reporting back to the HR Mediation Facilitator for case sign off etc and statistical reporting
- Participate in training of new mediators as required and act as a mentor to new mediators
- Participate in the evaluation process
- Participate in refresher training

9.3 Participant’s responsibilities

- Enter positively into the process with a view to reaching an agreeable outcome.
- Uphold the ground-rules at all times.
- Respect the confidential nature of the process, refraining from communicating any information connected with the mediation to others (unless with specific agreement from both parties, e.g. to approach a line manager for training).
- Understand that any information discussed during mediation may not be used as part of any other resolution process (e.g. the content of mediation may not normally be disclosed as part of a formal process).
- Abide by and respect the terms of any agreement reached through mediation.
- If mediation takes place as an alternative to a formal grievance and is resolved through the mediation process, it is the responsibility of the employee who raised that grievance to formally write to HR to state the grievance is resolved and closed. Similarly, if the case is not resolved, it is the responsibility of the individual to write to HR to re-instate the grievance procedure.
- Participate in the mediation evaluation process.

9.4 Line Manager’s Responsibilities

- Undertake mediation awareness training for managers.
- Understand the benefits of mediation and promote this as a method of conflict resolution where appropriate.
- Take responsibility for people management issues, not referring inappropriate cases to mediation (which would be more appropriately handled by the line manager).
- Ensure sufficient time is provided for the participants to undertake all appropriate steps in the mediation process.
- Support (within constraints of budget) any training/follow up action agreed during mediation, e.g. training/mentoring.
- Respect the confidential nature of mediation. Never seek information from the mediator or press participants to reveal details of a mediation agreement.
- Never coerce parties into mediation.
- Participate in the mediation evaluation process.
- Re-initiate mediation or undertake appropriate action if the conflict deteriorates.
10 Evaluation process

10.1 In order to ensure the policy and procedures remain effective the University will seek to obtain feedback from participants, mediators and other users of the mediation process. The purpose of the evaluation will be to assure the quality of the scheme without jeopardising the confidentiality of the parties involved.

11 Useful links and references

www.acas.org.uk
www.mediationuk.org.uk

12 Review

12.1 This procedure has been screened to determine its impact on groups which are protected by law using the University’s Equality Impact Assessment process. This procedure will be reviewed in two years, or earlier if legislative requirements change.

Last Date of Review: February 2013