

# Report

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Report to:	<b>Employee Issues Forum</b>
Date of Meeting:	<b>15 December 2009</b>
Report by:	<b>Executive Director (Corporate Resources)</b>

Subject:	<b>Mediation Policy</b>
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## 1. Purpose of Report

- 1.1. The purpose of the report is to:-
- ◆ outline the proposed Mediation Policy.

## 2. Recommendation(s)

- 2.1. The Forum is asked to approve the following recommendation(s):-
- (1) that the Mediation Policy be endorsed and referred to the Corporate Resources Committee for consideration.

## 3. Introduction

- 3.1. South Lanarkshire Council is committed to encouraging harmonious working relationships between colleagues. In most instances, workplace conflict is resolved informally without the involvement of a third party, however, where resolution is not achieved the Council has both formal and informal processes to support the parties in conflict.
- 3.2. The Council and the Trades Union are committed to working together in partnership, and this policy has been developed with our Trades Union colleagues. We continue to work together to find solutions to resolve workplace conflict.
- 3.3. Detailed guidance on the circumstances when mediation would be appropriate is contained within the discipline and grievance policies.

## 4. Mediation Policy

### 4.1. Aims

- 4.1.1. Mediation is an informal process that complements the Council's formal procedures for dealing with workplace issues. It is voluntary and completely confidential.
- 4.1.2. A fully trained mediator (a neutral third person) will work with the parties to help them find their own solutions and reach an agreement designed to resolve disagreement or improve the situation.
- 4.1.3. Mediation is conducted on the basis that both parties want to achieve a mutually agreeable outcome and solution. A successful mediation should lead to both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances.
- 4.1.4. Employees have the right to invoke the Grievance Procedure if mediation is not appropriate or is unsuccessful.

## **4.2. Mediation Explained**

- 4.2.1 Where there is conflict in working relationships, employees may choose to participate in mediation as a means of resolution. Mediation would normally be initiated by the parties following consultation with their line manager or might be suggested by line management or Personnel Services, although self-referral is also an option.
- 4.2.2. The appointed mediator will be independent of both parties and have no vested interest in the outcome.
- 4.2.3. Agreeing to mediation does not take away an individual's right to access other personnel procedures, however, information revealed/discussed during mediation will not normally be admissible in such cases.
- 4.2.4. Once resolution has been achieved, an agreement will be signed by both parties.

## **4.3. 5 Stages of Mediation**

The mediation process follows a 5 stage model and is facilitative in nature.

- 4.3.1. The first stage is the first contact with participants which 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, explore the background to the dispute and identify what each party would like to achieve from the process.
- 4.3.2. The second stage is the joint meeting where the mediator will set the scene and the ground rules for the process with both parties.
- 4.3.3. The third stage will explore the issues and the focus is to encourage communication and through appropriate questioning and summarising to check understanding, clarify assumptions and to acknowledge and move on from differences.
- 4.3.4. The fourth stage is to build 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.
- 4.3.5. The fifth and final stage is the conclusion of the agreement and, 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.

## **4.4. Right of Appeal**

- 4.4.1. There is no appeal process associated with mediation, however, participation in mediation does not exclude individuals from alternative recourse e.g. submitting a grievance.

## **4.5. Responsibilities**

- 4.5.1. The Mediation Co-ordinator will manage the mediation process and notify and appoint mediators to cases.
- 4.5.2. The Mediator will undertake case work for those who feel they are experiencing work related problems whilst maintaining a high quality mediation process by protecting its integrity. They should employ the principles of equality and diversity throughout the process.

- 4.5.3. Participants must enter mediation positively with a view to reaching an agreeable outcome by upholding the ground-rules at all times and respecting the confidential nature of the process. They should also abide by and respect the terms of any agreement reached.
- 4.5.4. Managers should understand the benefits of mediation and promote this as a method of conflict resolution where appropriate. They should support employees by ensuring sufficient time is provided for the participants to undertake all appropriate steps in the mediation process and by offering support (within constraints of budget) such as any training/follow up action agreed during mediation, e.g. training/ mentoring.
- 4.5.5. Trade Unions should maintain a partnership approach to the mediation policy.

#### **4.6. Evaluation**

- 4.6.1. It is important to obtain feedback from participants, mediators and other users of the mediation process in order to help refine the mediation process and enable us to measure the effect on formal grievances and sickness absence.
- 4.6.2. It can aid the personal development of mediators and to inform the provision of future training and support mechanisms.

#### **5. Next Steps**

- 5.1. Training for 12 mediators is currently being delivered by Acas and will be complete by 31 December 2009. Work is also underway to amend the relevant corporate training events to reflect the changes in policy. This includes a course on Mediation Awareness for Managers and Trade Union representatives.
- 5.2. A Management Bulletin and Personnel Circular will be issued early 2010 to inform employees and managers of the new policy and this will also be posted on the Intranet with a limited number of hard copies distributed.

#### **6. Employee Implications**

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

#### **7. Financial Implications**

- 7.1. Costs associated with the mediation training will be met by Personnel Services, Corporate Resources.

#### **8. Other Implications**

- 8.1. The Public Sector People Managers' Association (PPMA) have stated that there is a strong business case for preparing in-house mediation services now in order to deal with the people issues resulting from the changes that lie ahead for the public sector.
- 8.2. Best practice suggests that there is a strong business case for mediation not only for cost savings but also in relation to the softer benefits around morale, motivation and engagement of employees during the change and in particular during a restructure.

- 8.3. It is important to note that managers should not rely on mediation as a replacement for managing their people. It should be used as a process for dealing with conflict locally at the lowest level to avoid a formal process.
- 9. Equality Impact Assessment and Consultation Arrangements**
- 9.1. An initial equality impact assessment has identified the need to collect and analyse monitoring data to enable a full assessment to be completed. An action plan has been developed to do this and a full assessment will be carried out within 12 months.
- 9.2. Discussions regarding the changes have taken place with each Resource through the Personnel Managers Group and with the Trades Union through the JTUC Executive.

**Robert McIlwain**  
**Executive Director (Corporate Resources)**

23 November 2009

**Link(s) to Council Values and Objectives**

- ◆ excellent employer
- ◆ people focus
- ◆ fair and open
- ◆ working with and respecting others

**List of Background Papers**

- ◆ Acas Code of Conduct
- ◆ Acas Guide to Discipline and Grievances at Work
- ◆ Discipline and Grievance Policies
- ◆ Mediation Policy

**Previous References**

None

**Contact for Further Information:**

If you would like to inspect the background papers or want further information, please contact:-

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