

Mediation Policy	
Date approved by Trustees	March 2014
Date for next review	June 2022
Compliance lead	Director of People, Employee Engagement and PSTE
Agreed Policy file name	Mediation Policy
Agreed policy location:	RMT Website RMT Information area\Policies and Procedures

MEDIATION POLICY

1 Introduction

- 1.1 Ruskin Mill Trust (the Trust) is unequivocally committed to the goal of fostering mutual respect and understanding between participants.
- 1.2 The Trust recognises that a positive working environment and positive working relationships can have a positive impact on staff and student's well-being. It can also lead to better performance, improved employee retention and reduced sickness absence.
- 1.3 The Trust also recognises that conflict in the workplace happens and when it does we wish to support staff and managers to work together to resolve disputes and conflicts.
- 1.4 Mediation seeks to provide an informal and speedy solution to workplace conflict, and it can be used at any stage in a dispute but is often most effective if used early on. Mediation is proven to be an effective tool for resolving conflicts between participants or teams at work, through coming to an agreement with the assistance of an appointed mediator(s).
- 1.5 The appointed Mediator(s) will be neutral/independent of the situation to ensure impartiality.
- 1.6 This Mediation Policy may be amended, withdrawn, suspended or departed from at the discretion of the Trust. While it does not form part of any employee's contract of employment and is entirely non-contractual, all employees are required to adhere to the policy and any failure to comply with any aspect of the policy may be treated as a disciplinary matter.

2 Policy Aims

- 2.1 The aim of this policy is to provide participants or groups with a framework for resolving conflicts in a way which is supportive, impartial and objective.

2.2 The mediation process will primarily be offered as a tool where two parties are in dispute. The aim is to resolve conflict at the earliest possible opportunity and to encourage the parties to resolve their differences without having to go through a formal process such as the Grievance Procedure.

2.3 To a lesser extent, the process may occasionally be used to reconcile working relationships if this is recommended following a formal hearing.

3 Mediation

3.1 What is Mediation?

3.1.1 The overall aim of mediation is to bring about effective resolution of disputes at the earliest possible stage. It involves a neutral third party bringing two or more parties together with the aim of reaching a mutually acceptable agreement.

3.1.2 It is based on the principle of collaborative problem-solving, with a focus on the future and rebuilding relationships, rather than apportioning blame. Participants are encouraged to take charge of their own decisions and to accept responsibility for the consequences of their decision or actions.

3.1.3 Successful mediation should leave both participants feeling that the outcome is fair, reasonable and appropriate.

3.1.4 Mediation is not to be used as a substitute for the proper use of the Disciplinary or Grievance procedure. However, it may be used:

- during a suspension in the disciplinary and dismissal or grievance procedures, with the agreement of all parties, if there is a genuine belief that mediation may bring about a more satisfactory outcome than would be reached using the disciplinary and dismissal or grievance procedures. Should mediation fail to bring about a satisfactory outcome, the Trust reserves the right to reinstate the disciplinary and dismissal or grievance procedure as appropriate or
- subsequent to the outcome of the disciplinary and dismissal or grievance procedure.

3.1.5 Mediation is most effective when:

- All 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 workplace policy or procedures have occurred*.

3.1.6 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 and is not normally legally binding.

3.1.7 Parties will not be asked to take part in mediation in the following circumstances:

- Breaches of legislation or incidents of physical or verbal abuse should be dealt with under the Trust's Disciplinary and Dismissal Procedure.
- where allegations of discrimination, bullying or harassment have been made
- where an employee has acted in a way which breaches the Trust's rules or Code of Conduct, whether it be deemed as misconduct or gross misconduct
- where it is alleged that a crime has taken place.

In these situations, the Trust's disciplinary and dismissal or Grievance Procedures will be implemented.

3.2 What Does Mediation Seek to Achieve?

3.2.1 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 point in the conflict cycle. This is done by:

- Exploring the issues, feelings and concerns of all participants and rebuilding relationships using joint problem-solving;
- Allowing those involved to understand and empathise with the feelings of those they are in conflict with;
- Giving participants insights into their own behaviour and that of others and opening up opportunities for change;
- Helping participants develop the skills to resolve workplace difficulties for themselves in future;
- Encouraging communication and helping the participants involved to find a solution that both sides feel is fair and offers a solution;
- Using energy generated by conflict in a positive way to move things on.

4. Representation

4.1 Involving representatives in mediation is not generally encouraged. The central principle of mediation is to provide an opportunity for those in conflict to find their own solution to the situation and for the participants to remain central to the process. Restricting mediation to the participants can allow more open and honest discussion. Representatives could, however, play an important supportive role behind the scenes without being directly involved in the mediation.

4.2 Exceptionally, there may be situations where assistance is unavoidable for example, on grounds of:

4.2.1 Disability - where there is a disabled participant who may need to be accompanied a sign language interpreter in the case of a deaf participant.

4.2.2 Relationships - some of the participants may need support for the purpose of mediation which is dependant upon the nature of the conflict.

- 4.2.3 Race/ethnicity - a participant whose first language is not English, who does not have sufficient command of the language to express complex feelings and emotions, may need an interpreter.
- 4.2.4 Gender - some participants may request that the Mediator(s) is the same sex as they are.
- 4.3 In these cases the Mediator will need to ensure that the assistant clearly understands their role and that they, like the mediator, have established practice standards that guarantee their independence, impartiality and commitment to confidentiality.

5 What Happens During Mediation?

- 5.1 In order for mediation to occur all participants have to voluntarily agree to go to the mediation and work toward resolving the conflict. All participants will be asked to sign a Mediation Form agreeing to this. They will also agree to keep the details of the mediation confidential unless both agree to share any of the information. The consequences of breaching that confidentiality will be that the mediation agreement is abandoned and could give rise to a grievance being brought against the participant in breach.

5.2 Separate Meeting

- 5.2.1 **First contact with the participants:** The Mediator(s) will meet each participant separately. The aim of this first meeting is to allow each participant to tell their story and find out what they want out of the process.

5.3 Joint Meeting

- 5.3.1 **Hearing the issues:** The Mediator(s) generally brings the participants together and invites them to put their side of the story. At this stage the Mediator(s) 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.
- 5.3.2 **Exploring the issues:** Having identified the issues to explore, the mediation is now about encouraging communication between the participants, promoting understanding and empathy and changing perceptions. The aim of this part of the process is to bring to shift the focus from the past to the future and begins to look for constructive solutions.
- 5.3.3 **Building and writing an agreement:** As the process develops the Mediator(s) will encourage and support joint problem-solving by all the participants, ensure the solution and agreements are workable and record any agreements reached.
- 5.3.4 **Closing the mediation:** Once an agreement has been reached, the Mediator(s) will bring the meeting to a close, provide a copy of the agreement to those involved and explain their responsibilities for its implementation. In some cases no agreement is reached and other procedures may need to be used to resolve the conflict.

6 The Mediation Agreement

- 6.1 At the end of the discussion the Mediator will assist the parties to draw up an agreement, if one has been reached. Any discussion and/or agreements are 'without prejudice' and are morally, not legally binding.
- 6.2 The agreement will be the only document that remains from the mediation process. The participants will agree on who should retain copies of the agreement e.g. the manager or the Department of Human Resources may need to keep a copy to monitor that agreed actions are followed through and maintained.
- 6.3 Once an agreement is made the Mediator(s) will inform the Department of Human Resources.
 - 6.3.1 That the process has ended;
 - 6.3.2 Whether or not the process had a positive outcome;
 - 6.3.3 Whether or not another procedure needs to be instigated.
- 6.4 A member of the Department of Human Resources will communicate this information to the relevant manager(s) if appropriate.

7 What Happens After Mediation?

- 7.1 What happens after mediation depends on the outcome. If the participants/ parties **reach resolution** they will be expected to adhere to the agreement and the relevant manager will expect to see change for the better. If in the future the dispute erupts again then appropriate action will be taken including further mediation, or instigating a formal process e.g. Dignity at Work, Disciplinary.
- 7.2 If participants/parties **do not reach resolution** then appropriate actions will be taken including further mediation, or instigating a formal process e.g. Dignity at Work or Disciplinary.

8 What Happens if Mediation Breaks Down?

- 8.1 If at any point during the proceedings one of the participants wants to withdraw from mediation, for whatever reason, the Mediator(s) will inform the Department of Human Resources that mediation will not proceed.
- 8.2 There may be cases where the Mediator(s) feels that mediation should be stopped. This might happen if:
 - 8.2.1 It becomes clear that the situation is serious enough that it should be dealt with as a formal grievance.
 - 8.2.2 One participant's behaviour is unacceptable.
 - 8.2.3 One participant becomes too distressed to continue.

9 Confidentiality

- 9.1 Anything said during mediation is confidential to the participants. That confidentiality must be respected by all those involved in the mediation and, therefore, participants can only reveal what has occurred during mediation to colleagues or their managers if all participants involved agree. The only exceptions are where, for example, a potentially unlawful act has been committed or there is a serious risk to health and safety.
- 9.2 No formal notes or minutes will be taken during the mediation sessions. Participants and the Mediator(s) will be able to make hand written notes for their own personal use during mediation but these are then destroyed at the end of the process.

10 Advice on Mediation

- 10.1 Managers and participants can seek advice on mediation from the Department of Human Resources.