

Heald Place Primary School



Every Child a
Confident Learner

Mediation Policy and Procedure

September 2024

This policy and procedure has been produced by One Education's HR and People service. The HR and People team provides management and HR support and advice to schools and academies purchasing their services under an agreed Service Agreement. For further information please contact the HR and People team via the HROne Helpline: 0844 967 1112 (local rate from landline) or HROne Helpline Email: hrpeople@oneeducation.co.uk Website: www.oneeducation.co.uk

This document is recommended for adoption by all schools including academies and free schools. References in this document to the Headteacher include a reference to an academy or free school Principal.

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Under the public sector equality duty, all schools/academies must have due regard to the need to eliminate discrimination, harassment and victimisation and any other conduct prohibited by the Equality Act 2010; to advance equality of opportunity between those who share a relevant protected characteristic and those who do not share it and to foster good relations across all protected characteristics. This means schools/academies must take into account equality considerations when policies are being developed, adopted and implemented. The HR and People team regularly reviews all policies and procedures which are recommended to schools/academies to ensure compliance with education and employment legislation including the Equality Act 2010. Consultation with schools/academies is an important part of this review process. Headteachers, Principals and Governing Bodies are asked to contact the HR and People team via the HROne Helpline if they believe there are any negative equality impacts in their school/academy in relation to the application of this policy/procedure.

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1. Definitions

- 1.1 This policy applies to all academies, community schools, voluntary aided schools, voluntary controlled schools and free schools. The term “School” in this policy is used to describe any school to which the policy applies.
- 1.2 All references to the “Governing Body” or to “the Governors” refer to the governing body or governors of the school. In respect of academies, references to the “Governing Body” should be read to mean the board of directors or the directors of the academy trust company.
- 1.3 All references to the “Headteacher” refer to the headteacher of the school or the principal of the academy.
- 1.4 All references to the “Party” or “Parties” refer to the person(s) involved in the dispute.
- 1.5 All references to the “Mediator” refer to the person or persons who mediate between the Parties in an attempt to support resolution of the dispute.

2. Policy statement

- 2.1 The morale of the School depends to a large extent on a secure and happy workforce but it is widely recognised that disputes will arise that, if left unresolved, can threaten the wellbeing of individual employees and the School as a whole.
- 2.2 The Governing Body advocates informal, local resolution to such disputes wherever possible but, where this is not considered a viable option, the Governing Body recognises the important role that mediation can play in the maintenance of positive working relationships.
- 2.3 Mediation is a process whereby parties that are in dispute meet and utilise an independent third party or Mediator to work out a solution together. The process offers a range of benefits including; the reduction of communication barriers, enabling clarification of the real issues, helping those parties involved to identify their needs and interests, promoting effective problem solving and helping individuals to reach their own agreements.
- 2.4 Wherever possible employees are encouraged to engage in voluntary mediation as the preferred tool in seeking a resolution to any dispute that they perceive to be affecting the quality of their work life balance and/or the working relationships that they have with others. This policy seeks to offer guidance as to when mediation may be deemed appropriate, (see section 6)
- 2.5 The Governing Body does however acknowledge that mediation will not be appropriate in all circumstances and that some issues should be dealt with under the terms of other relevant policies. Such policies may include the Disciplinary Policy, the Grievance Policy or the Bullying and Harassment Policy.
- 2.6 The School’s mediation policy, which is non-contractual in status, is maintained and applied at the discretion of the Headteacher and/or the Governing Body and is for guidance only.

3. Scope

- 3.1 This policy document applies to all school employees whose employment is under the purview of the Governing Body.
- 3.2 The foreword to the March 2016 Advisory, Conciliation and Arbitration Service (ACAS) code on discipline and grievance advocates the use of mediation at any stage of dispute resolution.
- 3.2 This policy document is therefore commended to the Governors of all Schools with the recommendation that it is formally adopted following a period of consultation with those teacher associations and trade unions which it recognises for consultative purposes.

4. Principles

- 4.1 Mediation is voluntary and will take place only where all Parties involved in the dispute agree to it.
- 4.2 Mediation will normally be initiated by the relevant manager or governor following consultation with the parties.
- 4.3 Following the referral, the appointed Mediator may, if appropriate, meet with both parties to ascertain the viability of proceeding with the mediation.
- 4.4 The appointed Mediator will be independent of both Parties and will have no vested interest in the outcome.
- 4.5 Mediation is a confidential process and, as such, there will be no right of representation during the course of proceedings other than in exceptional circumstances and at the discretion of the Mediator.
- 4.6 The relevant manager or governor who initiated the mediation will be advised when the process has been completed. Consent will be sought from all parties involved in the mediation before any details of mediation are released.
- 4.7 Agreeing to mediation does in no way take away a Party's right to access other HR procedures, however, information revealed or discussed during mediation will not normally be admissible in such cases.
- 4.8 The involved Parties should use all reasonable endeavours to attempt to settle the dispute in good faith at the Mediation. If a Party does not do so, the Mediator may terminate the Mediation.
- 4.9 If a solution can be achieved, the details of this will remain confidential between the Parties, the Mediator and, if appropriate the referring manager. In the event that any actions arise as a result of the mediation that require support from a manager, (e.g. training), all relevant parties must agree on a means of implementation. Any support that has cost implications will need to be referred or agreed by the Headteacher or Governing Body.

5. Relationship with disciplinary and grievance procedures

- 5.1 Entering the process of mediation, by an individual, does not remove the entitlement to invoke a formal procedure, such as the grievance procedure.
- 5.2 If the issue is not resolved and a formal procedure is invoked, the discussion that took place, cannot be disclosed at any stage of the Disciplinary, Grievance or any other of the School's procedures.
- 5.3 If, however, mediation is invoked following a formal procedure, the Mediator will be given background details of the circumstances leading to mediation.
- 5.4 Mediation does not replace the School's disciplinary and grievance procedures and should be adopted only where the appeals procedures have been exhausted or where it is agreed that the matter might be best resolved through mediation at an earlier stage. If mediation is agreed, the disciplinary or grievance process may be suspended at the absolute discretion of the School. In the event that mediation does not resolve the dispute, the relevant disciplinary or grievance process shall immediately be reinstated at the conclusion/termination of the mediation.

6. The use of mediation

- 6.1 Mediation may be appropriate in order to:
 - resolve conflict involving colleagues
 - rebuild relationships after a formal dispute has been resolved; and
 - address a range of issues, including relationship breakdown, personality clashes, communication problems, perceived bullying and concerns under the Equality Act.
- 6.2 Quite apart from circumstances in which a Party to a dispute refuses to engage with mediation, mediation may not be suitable:
 - when used as a first resort, as employees should speak to each other and talk to their managers before seeking a solution through mediation
 - when used by a manager to avoid their managerial responsibilities
 - where a decision about right and wrong is genuinely required to resolve a dispute (for example, where there is possible criminal activity); and
 - where an individual raising discrimination or harassment concerns requires the allegations to be investigated
 - when one side is completely intransigent and using mediation will raise unrealistic expectations

7. Appointing a Mediator

- 7.1 The School will appoint a Mediator who will be neutral and impartial.
- 7.2 Where appropriate the School may at its absolute discretion appoint an external Mediator. The costs of the external mediator will be borne by the School.

- 7.3 The Mediator shall assist the Parties in identifying the issues raised by the dispute, consider and discuss possible resolution of these issues and, if possible, achieve resolution of the dispute by agreement between the Parties.
- 7.4 The Mediator, in conjunction with the Parties, will decide the venue, date and other practical matters relating to the mediation itself. Mediation meetings will generally be held at the School's premises, unless exceptional circumstances apply

8. Confidentiality

- 8.1 Unless specific consents have been given, all Parties will keep confidential, not disclose to any other party nor use for any other purpose other than the Mediation:
- all dealings between the Parties and the Mediator;
 - all dealings between the Parties in connection with the Mediation; and
 - all information (whether written, oral or otherwise) and documents arising out of, or in connection with, the Mediation.
- 8.2 The Mediator will not disclose any information given by one party in confidence to any other Party without the express consent of the disclosing Party.
- 8.3 If the mediation process results in the resolution of the dispute the Mediator will draw up any agreements and circulate to all involved Parties. All other documentation relating to the mediation will be destroyed following conclusion of the proceedings. There is no automatic right for managers, human resources, trade unions or any other parties to have access to information.
- 8.4 A Mediator who has worked on a case will not be called upon, or required, to present evidence, within any other process e.g. a disciplinary hearing.
- 8.4 Information remains confidential with the exception of, where the safeguarding of children or adults may be involved, such as abuse, or where fraud or criminal activity is disclosed. In such cases the mediator will stop the mediation and report to management and/or relevant organisations as appropriate.

Appendix A – Mediation Questionnaire
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What do you think are the main issues on which there is/are currently disagreement?

What facts do you think support your position in this disagreement?

What facts do you think the other party may feel support their position?

How do you currently feel about this disagreement?

What would be, for you, an ideal solution to these issues? Do you have any proposals for achieving this solution? Do you think these can be practicably achieved?

If an ideal solution is not possible is there an alternative solution that you would regard as acceptable? How could this be achieved?

Completed by
Date

Appendix B - The Mediation Process

Initial individual meeting with each party

The Mediator will meet with each Party separately and in private and you will be notified of the arrangements for this meeting by the relevant manager, governor or Mediator. Parties may if they wish bring a companion or representative to the meeting.

During this meeting the Mediator will:

- Outline the mediation process and the role of the Mediator and respond to any questions you may have about the process.
- Explain the requirement for confidentiality from both parties.
- Invite you to set out how you feel about your working relationship with the other Party with a view to establishing what you would like to achieve through mediation.
- Seek your permission to continue with the mediation.

The mediation process will only progress to a joint, face to face session if that is what both / all parties want. The alternative approach which may be preferable for one or more Parties, at least at the outset, is a 'shuttle' mediation which involves the Mediator going back and forth between both Parties who remain in their separate rooms whilst facilitating an arms length joint session. The disadvantages of 'shuttle' mediation are that:

- It can prolong the mediation process
- The Parties do not actually see how each of them really feel about their current relationship which can be a powerful way for each Party to find common ground and reach a mediated solution.

Joint session

This will usually happen as a face to face session and meeting are generally conducted without Party's companions or representatives.

- At the beginning of the joint session the Mediator will invite the Parties to agree a set of ground rules for the conduct of the meeting, for example, that the Parties will treat each other with respect. This will help create a safe and neutral environment and the Mediator will ensure that these rules are complied with and may intervene where necessary.
- The Parties will be given interrupted time in which to set out and be heard about how they feel about their current working relationship.
- The Parties will then have time to discuss any differences and explore whether there is any common ground between them.
- Breaks may be requested during the process by the Parties or by the Mediator.
- The Mediator may make notes, any notes will be destroyed at the end of the mediation process.

- The Mediator can help to write up an agreement. Any agreements that are made are the property of the Parties and will be agreed by the Parties.
- Mediation sessions will vary in length according to the nature of the issues. Further meetings may be needed by the agreement of all parties and following authorisation in relation to any additional costs.

Mediation Agreements

Any written agreements are made at the discretion of the parties involved. Where written agreements are made they will only be shared between the parties involved in the mediation process and no other parties, unless agreed. Where the parties have jointly agreed a mediation agreement the document becomes jointly owned. Copies of the agreement are retained only by the Parties. Where all Parties agree a copy of the agreements may be shared with the manager who authorised the mediation.

What happens if the mediation is unsuccessful?

It is possible that no resolution is reached; individuals retain their right to pursue formal procedures. Further advice may be sought from your line manager, trade union or Mediator.