



This is a regular look at recent news in the world of mediation, focusing in particular on the workplace and throwing in some of my own views for good measure. In this edition the dominant theme is the extent to which mediation can be mandatory, and a number of articles consider this from various perspectives. I also look at the latest figures from Employment Tribunals and ACAS to see what progress is being made to reduce disputes ending in court.

Marc Reid

New resolution process for Employment Tribunals



There is much talk at the moment around the extent to which Alternative Dispute Resolution can be mandatory.

Elsewhere in this News and Views Letter I look at the new process in commercial disputes, but compulsory (or 'non consensual') ADR is now an option in employment cases too. As explained in this article ([here](#)) the new process is called a 'Dispute Resolution Appointment'. Where a judge considers it appropriate the parties are obliged to participate, and an Employment Judge will deliver an impartial evaluation on the case of each party. The intention is that this forms a basis on which the parties can reach a settlement. From my perspective the aim of reducing the number of cases going to court is worthy but let's be clear this is a long way from mediation. It is a form of assessment on the legal worthiness of a case from an impartial expert - a useful tool to help reach resolution, but is not in any way to be confused with the non evaluative mediation approach.

Compulsory mediation for small claims and no regulation change

Continuing the theme of compulsory mediation, the Government has confirmed its use for Small Claims in the County Court ([here](#)). I look at this issue in my latest blog (see article later in this newsletter), but the other important element of this announcement was the confirmation that there will not be statutory regulation of the mediation sector. I think this is the right step as statutory regulation would require much additional bureaucracy and giving power to certain organisations over others. This would be overkill for a situation where there does not appear to be a problem that needs solving. Plus there are plenty of basic checks that can be made by those using mediators. The 'buyer' can always check what training and experience they have had, and seek references etc. without the need for an additional layer of bureaucracy.

Want to share a thought or make an enquiry? We'll be glad to hear from you:

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High levels of employment disputes

Two articles address the current situation relating to ongoing levels of employment disputes. HR Magazine reports ACAS figures suggesting record levels of conflict ([here](#)) whilst another article refers to the current major backlog of Employment Tribunal claims ([here](#)). This demonstrates that despite ACAS success and the additional funding from Government to address the backlog, there are still far more ET claims than the system can cope with. Cases are often taking over 12 months to be heard. The answer is to focus on reducing the issues ever reaching ACAS level and certainly not ET level. If investment were to be redirected at getting more employers to take workplace mediation seriously, conflict could be addressed at grass roots level, saving money and much pain and anguish for those in dispute.

Mediation in the US Army



I always love to see examples where workplace mediation is being used, and particularly in organisations where you might least expect it! This article ([here](#)) from Mediate.com talks about mediator training recently undertaken by 19 members of one of the divisions of the US Army. This builds the in-house resource which can be deployed to help resolve relationship conflict between colleagues before it escalates. I particularly like the concluding comment in the article which references that the skills picked up in mediation training are not restricted in application to mediation situations. They can be a valuable asset for anyone in a management role.

Our website provides a range of great resources, most of which are free, including our ebook '8 Stages of Workplace Conflict'. Take a look at the website at www.mediation4.co.uk

Conflict strategies for leaders

An organisation can have all the policies and processes in place to deal with conflict but if these are not led from the top it's always going to be a struggle. This great Forbes article ([here](#)) suggests 3 strategies leaders can adopt to ensure conflict resolution success in their organisations. The article sensibly recommends that the leader in the first instance needs to address themselves, with self reflection about how they respond to conflict. They can also be proactive about spotting the signs of potential conflict within their team. Beyond this it is important for the leader to look at the wider team, helping them to learn skills and manage conflict within the team. Finally it is about helping the organisation as a whole to manage conflict in a more positive, proactive way. This is a great approach for leaders to take - let's hope they do!

Should mediation be mandatory?



As you have seen elsewhere in this News and Views Letter, the issue of whether you can mandate mediation is a hot potato at the moment. When I posted my latest blog ([here](#)) on Linked In, it became one of my most read articles ever. The real risk that I identify in the blog is that the term mediation is too broad. It encompasses a wide range of disciplines and areas and whilst a degree of compulsion may work well for instance in a commercial context, it would not in the workplace. I would therefore much rather see alternative nomenclature for the types of 'mediation' that are more akin to negotiation or arbitration.

Website: www.mediation4.co.uk