



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. This edition features the latest on Employment Tribunals and how they are working 2 years on from introduction of fees. I look at difficult conversations in the workplace and whether we can all develop more empathy for others and there's good news about mediation in an NHS trust and a school.

Marc Reid

Employment Tribunals: latest statistics and review of fees

The Government has announced its review of employment tribunal fees so I thought it was appropriate to run a 'double length' feature looking at three recent articles about where we are with ETs and efforts to move away from them. First off the most recent statistics (click [here](#)) give us the latest picture on the level of claims. We now have 18 months of data following the introduction of ET fees and it is clear the drop off in claims was not just an initial reaction but a sustained trend. Single claims are running at about a third of the pre fee levels. Of course it is not just the fees but other changes, not least compulsory ACAS Early Conciliation, that have also contributed. But does this drop in claims mean that some people are being deprived of access to justice? An article in Personnel Today (click [here](#)) highlights this particular criticism and

refers to the many challenges, (all unsuccessful) launched by unions against the fees. The Government



review is probably well timed in that sufficient time has elapsed to give a proper evaluation. No-one is expecting radical change to come out of it; there is a general expectation that fees are here to stay though the system may be tweaked. This may suit Employment Lawyers who according to this article in People Management (click [here](#)) question whether ETs are fit for purpose. In particular whilst they recognise the value of ADR options in the process they are not convinced they are working as well as they could be. It suggests once again that whilst the Government intention is positive, there is still a good way to go before we can make a significant shift towards collaborative resolution rather than litigation.

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

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Difficult conversations at work

Chartered Management Institute's article on the Top Ten Difficult Conversations (click [here](#)) shows that a third of us in Britain, find it harder to discuss feedback on poor performance than to dump a partner. All the top four most difficult conversations are work-based scenarios. With this in mind take a look at People Management magazine's article on HR's Ten Most Expensive Mistakes (click [here](#)) which identifies the number one mistake as Avoiding Difficult Performance Conversations. It emphasises the critical importance of training our managers to have the competence and confidence to conduct effective conversations. The consequences of not doing so are potentially disastrous.



Primary school pupils mediating like a professional QC

This article (click [here](#)) written by PJ Kirby QC tells of how hugely impressed he was on meeting the eight-to-eleven year old peer mediators at Herbert Morrison Primary School in Vauxhall. The pupils have been trained in peer mediation to help other children resolve their playground disputes through mediation rather than more robust means. They take their mediator role seriously, and demonstrate all the skills of professional mediators. In short the QC conceded that "frankly, there was nothing I could have taught them." It is wonderful to see these skills being taught in schools. If only it was more widespread and more highly valued then we'd see a lot less conflict when the children become adults. Less work for us mediators though!

Website: www.mediation4.co.uk

Can you teach people empathy?

This article in the BBC Magazine (click [here](#)) examines whether we could all become more empathic. According to the latest neuroscience research 98% of people have the ability to empathise wired into their brains. In other words nearly all of us can step into the shoes of others and understand their feelings and perspectives. The problem is that most of us don't tap into our full empathic potential. The article gives some ideas on how to be more empathetic. There is some great advice here particularly on the importance of listening. The breakdown of communication lies at the heart of many workplace conflicts and a key part of the mediation process is to enable participants to listen to each other. It is the first step to gaining a better understanding and seeing a way forward.

New ACAS research - conflict conundrum to mediation miracle?

My latest blog (click [here](#)) focuses on a new and detailed study from ACAS written by two academic experts who examine the



introduction of mediation into an NHS Trust. Does the research prove that workplace mediation is the panacea to all conflict at work or is it just a mixture of subjective views lacking substantive evidence? The answer is of course more nuanced. The report confirms some things we knew already, tells us some things which are new and leaves some important questions unanswered.

Each of these aspects I look into in detail in this article.