



# Equalities Mediation Service

## Resolving Equalities Disputes...

### Background

**We provide a service for anyone who feels they have been treated unfairly because of disability; race; religion or belief; sexual orientation; gender (including gender reassignment); or age.**

**Equally our service is for employment, facilities, services or education providers that have received a complaint about an alleged case of discrimination.**

The Equalities Mediation Service covers England, Wales and Scotland and is provided by Mediation Works on behalf of the Equalities and Human Rights Commission (EHRC).

The EHRC Casework and Litigation team processes all potential referrals to our mediation service. Cases can be referred to them by members of the public through the EHRC helpline. They can also be referred by third party referral agencies on behalf of their clients. Third party referral agencies are typically Law Centres, Citizen's Advice Bureaus, charitable organisations, discrimination advice agencies etc.

When a case is referred to us we are empowered, under the Equality Act 2006, to mediate in discrimination complaints under all of the equality strands. Mediation Works also provides a mediation service for complaints relating to Air Travel Accessibility for people with restricted mobility. This is for complaints falling under EC Regulation 1107 / 2006.

Different people want different outcomes from Equalities Mediation. The person making a complaint usually wants their future experience to be different and for their point of view to be understood. Employers, service providers, pre and post-16 education providers often want a greater understanding of the issues arising from the complaint and to resolve matters without the need for legal involvement.

Many people are looking for a better awareness of equality issues or to improve workplace relations, while others are looking for an apology or a refund. Not everyone is seeking financial compensation, and many express hopes that this process will result in changes for people at large.

We do not give advice ourselves, and we do not judge or arbitrate in cases. Our role is



to prepare all those involved for the face to face meeting and facilitate the process in the light of the law. We focus on the rights of the individual making the complaint, and take into account what is reasonable and practical.

**Remember... Resolution does not have to be costly, and a quick, amicable solution is beneficial to everyone involved.**

## **How the process works - step by step**

- EMS receives a referral from the Equality and Human Rights Commission (EHRC).
- The case is allocated to a Case Coordinator who makes initial contact, informs those involved about the process and signposts them towards relevant information and advice.
- The Case Coordinator helps to prepare and agree the Mediation Agenda or Desired Agreements - a list of items that the complainant feels would need to be achieved in order to settle the complaint. The Mediation Agenda or Desired Agreements must relate to the incident which led to the complaint and to relevant areas of Equality law.
- The Mediation Agenda items or Desired Agreements are passed to the respondent for agreement to use as a basis for discussions. The points might include changes to policy or practice, staff training, an apology or compensation. The Mediation Agenda items or Desired Agreements are put forward as topics for discussion. If the respondent has different views, the meeting will be an opportunity for them to voice any concerns. At this stage the respondent may wish to prepare and discuss the best way to respond with relevant people.
- A Mediator is appointed and a meeting date agreed for a single informal meeting at a neutral venue lasting no longer than 4 hours.
- Attendees are agreed. It is essential that attendees have the authority to reach and sign binding agreements. If they do not, unresolved issues are likely to prevent full settlement.
- The Mediator will manage the meeting, to ensure everyone has the opportunity to speak and be heard, to discuss the issues raised, to share their positions and try to identify common ground with the aim of resolving the complaint.
- The Mediation Outcome Form is drawn up during the meeting and creates a legally binding contract upon signature. The outcome is either 'Full & Final' or 'No

- Settlement'. Some employment cases will require an additional contract called a Compromise Agreement. If this is the case, it is a requirement that the employee has received independent advice from an Independent Legal Advisor (ILA).
- A copy of the completed Mediation Outcome Form is sent to all those involved and the agreed pages are sent to the EHRC Casework and Litigation Team. The original is kept on file by our service.
- The case is closed. Note; If either party refuses to properly engage in the process we may close a case and return it to the EHRC.
- EMS Mediation is an impartial and voluntary process. Mediation is also confidential. We never disclose to any third party that our service is being used.

## About the Equalities Mediation Service

Since January 2007, Mediation Works' EMS has received over 468 referrals and has facilitated the successful resolution of disputes in 76% of all cases.

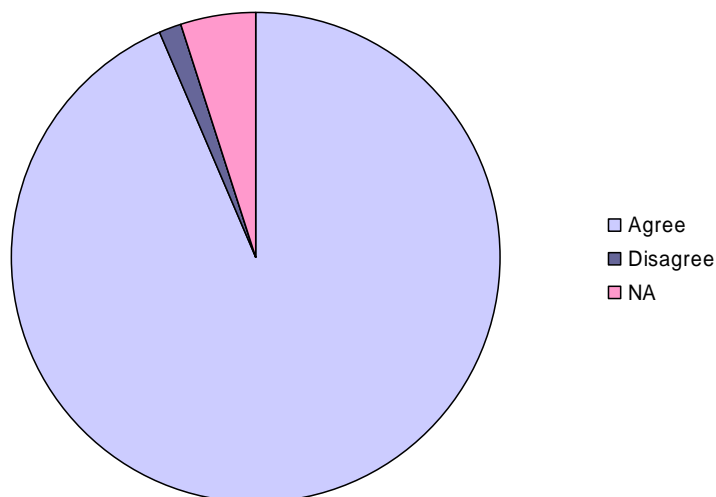
In our most recent survey of feedback from complainants and respondents;

78% of all users said that mediation met or exceeded their expectations

93% of all users said that they would recommend others to use our service

95% found the service easy to use

We asked our clients whether they feel that using EMS is a good way to resolve disagreements;



## **Expectations – Yours and Ours**

### **What you can expect from us...**

#### **We will;**

- where possible, work to an 8 week schedule from start to closure of case
- reply quickly to communications from you;
- provide you with information on Equalities legislation and the mediation process;
- keep information about you confidential; unless we have gained your permission to share information.

#### **We will not:**

- suggest ways to resolve the complaint;
- give advice or opinions or comment on the merits of a case;
- enforce agreements reached.

### **In return, we expect that you will:**

- tell us if you know that you will be unavailable for any substantial period of time;
- reply promptly to messages, be available for case discussions, and take responsibility for your legal deadline;
- be available for a mediation meeting (usually notice of 3 to 4 weeks will be given) and that you offer as many available dates as possible;
- accept that we cannot always get back to you immediately (we sometimes need to prioritise cases according to the legal time limits);
- make use of the information and experience our staff offer, ensuring that you are fully prepared for an informed and effective meeting;
- keep us informed of any relevant changes, e.g. contact details;
- treat our staff in a polite and respectful manner at all times;



- understand that we are here only to facilitate understanding of Equalities legislation, and to manage the mediation process to aid towards the resolution of a complaint;
- respect the importance of confidentiality in the mediation process: keep information relating to the complaint and details of those involved private;
- make us aware of any problems you are having with our service so that we can address any concerns as soon as possible;
- ensure meeting attendees have full authority to discuss the Desired Agreements or Mediation Agenda and reach agreement on behalf of the organisation.

### **And that you will not:**

Assault, threaten, abuse or otherwise act improperly towards our staff. We can withdraw the service if you do so or if you do not co-operate with our staff (for example, by taking an unreasonable amount of time in responding to requests for information or communication). The case will then be referred back to the Equality and Human Rights Commission, together with an explanation as to why the case had to be closed.

### ***Important Notes:***

#### **The EMS does not have powers of enforcement.**

In the unlikely event that an Agreement is not kept, we recommend parties contact each other directly to discuss the problem. If no satisfactory response is received, please feel free to tell the EMS of your concerns. In some cases we may contact the other party to help resolve the situation. Any EMS involvement will be in accordance with our confidentiality policy.

Should you have questions or concerns about the Mediation process at any time, please contact our office. Our office staff will either deal with your query directly or refer it to the Practice Manager.

### **Our Contact Details:**

#### **Equalities Mediation Service**

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