

# PODCAST 2

## Workplace mediation



This project has been funded with support from the European Union.  
This publication reflects solely the views of the author and the European Union is not responsible for any use of the information contained therein.

Project: Academy of sustainable development - ESG management KA220-VET - Cooperation partnerships in the vocational education and training sector



Mediation is a voluntary process led by an impartial third party to resolve conflict. Conflict can occur in any employment relationship and is best dealt with early at source. If left unresolved it can escalate, potentially leading to discipline procedures. Mediation avoids these more formal and costlier routes by guiding participants towards reaching mutual acceptable solutions. The process is flexible and voluntary, and any agreement is morally rather than legally binding.

Workplace incivility negatively impacts employees, teams, and organisations. It is related to higher levels of anxiety, burnout, depression, reduced self-esteem, job satisfaction and performance.

The organisational costs of conflict can include:

- Management time in dealing with the conflict instead of focusing on managing the business.
- The risk of costly formal or legal proceedings
- A decline in productivity.
- Lower staff morale
- Sickness absence
- Staff turnover
- Associated recruitment costs

Here's how workplace mediation typically works:

First, a trained and impartial mediator is selected to assist in resolving the conflict and facilitate the discussion toward a resolution. Participation in workplace mediation is usually voluntary unless it is part of a policy and all parties involved must be willing to engage in the process. Mediation is confidential where participants speak openly without fear of consequence. The mediator helps the parties identify the underlying issues causing the conflict and guides them in generating potential solutions. The resolution, if found, must be formalised in writing, dated, and signed.

Workplace mediation is used to address various types of conflicts, including interpersonal conflicts, communication breakdowns, disagreements over work-related issues, and disputes between employees and supervisors, and can be beneficial for many reasons such as that:

- It promotes open communication between employees or colleagues in conflict.
- Demonstrates commitment to inclusivity by sending a clear message to employees that the organisation is committed to creating an inclusive and respectful work environment.

- Empowers individuals to take an active role in resolving their conflicts.
- Addresses underlying issues contributing to a conflict.
- Reduces legal risks in particular with discrimination or harassment claims.

In summary, workplace mediation is a conflict resolution process in which a neutral third party, known as a mediator, helps employees or colleagues in a workplace resolve disputes or conflicts. The goal of workplace mediation is to facilitate communication and collaboration between individuals who are experiencing conflicts, ultimately leading to a mutually agreed-upon solution.

- participation in the rights of workers regarding work-life balance and health and safety
- respect for the human rights, fundamental freedoms, and democratic principles as set out by the United Nations.

The Racial Equality Directive (2000/43/EC) prohibits discrimination based on race and ethnic origin in the workplace which apply to vocational training, working conditions, and access to promotion opportunities. The European Commission explains that there are two different types of discrimination. Firstly, there is direct discrimination – this is when one person is treated, has been treated, or would be treated less favourably than another in a comparable situation on grounds of racial or ethnic origin. This could occur when only a certain racial group is invited to a post work event, or an application is denied based on the persons origin alone. Secondly, indirect discrimination is when “an apparently neutral provision, criterion or practice would put persons of a racial or ethnic origin at a particular disadvantage compared with other persons, unless that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary”. This could occur when there are certain employment criteria such as “English must be your native language”. One way companies can ensure that their work practice is inclusive, is to reach out to non-governmental organisations to get professional advice on the implementation of strategies against discrimination.

The Employment Equality Directive (2000/78/EC) prohibits discrimination based on religion or beliefs, disability, age, and sexual orientation. The directive highlights that women are often the victims of multiple discrimination, as well as that people who have been subject to workplace discrimination on those grounds must have adequate means of legal protection. Therefore, as a company you may wish to have external legal associations or entities open to workers if needed. Article 5 outlines that employers shall take appropriate measures to create reasonable work accommodations for disabled persons “to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer”. Article 6 includes the justification of differences of treatment on grounds of age which include the setting of special conditions on access to employment and vocational training, minimum conditions of age, professional experience or seniority in service for access to employment or to certain advantages linked to employment, a maximum age for recruitment based on training requirements.

Expanding on this, the Equal Treatment Directive (2010/41/EU) strengthens equal treatment between men and women, in self-employment. It prohibits discrimination based on sex in the access to and supply of goods and services as well as the protection of self-employed women during pregnancy and motherhood.

This is mostly concerned at member states and national law, however if your company employs self-employed workers, we encourage you to research this directive further, and make the appropriate workers aware of its existence. It is your responsibility as the employer to hold the appropriate level of knowledge and information to direct your employees, even the self-employed, to appropriate bodies as part of your social pillar.

The Work-Life Balance Directive (2019/1158) upholds workplace inclusion by improving work-life balance for working parents and carers. As opposed to some of the other directives mentioned and strategies your organisation may wish to implement to directly uphold diversity and inclusion, this directive indirectly fosters diversity and inclusion through recognising that there is a range of needs and responsibilities of individuals in the workplace. It includes definitions on paternity (minimum of 10 days) and parental leave. One type of leave, termed carers leave, is not often discussed. This is when an employee can leave work to provide care or support to a relative, or to a person who lives in the same household as the worker, of five working days a year. Furthermore, a type of working arrangement which grows day by day termed Flexible working, specifies that workers with children up to a specified age of at least eight years, and carers, have the right to request flexible working arrangements for caring purposes, with the right to return to the original working pattern. If an employee has applied or undertaken any of these arrangements, it is prohibited to treat them any less favourably than employees who have not done so, such as refusing a promotion or being demoted.

These directives collectively promote diversity and inclusion in the workplace within the EU by seeking to eliminate discrimination and ensure equal opportunities and treatment for individuals from diverse backgrounds. Key stakeholders and managers should not just be aware of what the law states, but also how it impacts their organisation and its functioning. All these strategies and company policies are a key of the yearly non-financial report, but also essential to a healthy workplace and employee morale.

### **Sources:**

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022L2464>

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0078>

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0043>

<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:180:0001:0006:en:PDF>

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1158&from=EN>