

# The value of workplace mediation in resolving issues arising from employee personal problems

## Key Learning Points

- How employee personal problems can impact the workplace, and the risks of mismanaging these situations.
- How employers can better protect themselves – and their people – against the risk of employees' personal problems impacting on themselves and the workplace.

## Personal problems can represent a risk to organisational performance and workplace wellbeing

Conflict at work typically emerges from performance issues, change and challenging relationships. However, mental and emotional wellbeing can also be a key contributor.

“We all have pressures and problems outside of work,” says Jennifer McNeill, Regional Director of South East Employers, “but some people live and work with severe and sometimes incapacitating personal issues. For example, difficult or abusive relationships, problems with children, a sick relative or a bereavement. Maybe their own health, physical or mental, is causing difficulties at work. These may be short or long term issues and they do not have to be current – past trauma can have a powerful hold, such as being the victim of bullying or abuse in childhood.”

Individual employee vulnerabilities may introduce strong undercurrents that can negatively impact the working environment and interpersonal dynamics.

“People who are suffering are often less resilient. Their perceptions can be skewed, making them susceptible to irrational, negative thoughts and feelings, often driven by an instinct for self-preservation. Challenges at work may affect them deeply. Some people are less able to accept or fend off what others can cope with more easily. Engaging them effectively in resolution of a workplace issue can be challenging.”

The relationship between the organisation and the employee may become increasingly fraught.

“Sometimes the trigger can be trivial, but in their preoccupation, people can lose sight of that and inflate it out of proportion. For example, sensitivity to bullying may compel an employee to interpret any confrontation or robust management as a personal attack.”

Other parties can inadvertently contribute to any volatility, whether they are aware of the root causes or not.

“Colleagues can find it difficult to work with these individuals. They may be aware of the personal problem and feel discomforted by that knowledge, or they may not be aware and feel discontented by their perceptions. However it manifests, it can disrupt and destabilise team dynamics. At the same time, concerned third parties, such as friends and family members, can fuel the situation by not having an accurate understanding of the work context.”

“Managers and employees can feel more comfortable and safeguarded by defaulting to formal procedure. However, many do not fully appreciate how unsympathetic a system it is, what it will demand of them and what the consequences and side-effects may be. The personal and professional risks are profound, especially in situations with volatile personal issues at root.”

The risks to the employer are significant. Performance or attendance is likely to decline, workplace relationships are likely to break down and counter-productive behaviours tend to emerge. The affected employee may feel driven to extreme measures to escape or overcome any identified threat, including prolonged sickness absence and grievance claims.

### **Mismanagement can help drive resolution to the wrong extreme**

The risk is compounded if the employer is unaware of the underlying issues. Inappropriate or inadequate organisational or managerial responses can exacerbate the situation, empower misperceptions and drive issues down a costly, disruptive and potentially damaging path.

“Employers have reasonable intentions,” says Lisa Butterfill, HR and Development Manager, East Midlands Councils, “but there is usually too much focus on remedying the symptoms, not the causes. Organisational perceptions may also be distorted by unconscious bias – perhaps arising from limited or overfamiliar understanding of employee history – which can cause them to overlook individual human elements in each situation. That’s not to say they’re not supportive, but rigid adherence to policy and prescribing inappropriate approaches can create delay or make things worse whilst blocking opportunities for genuine resolution.”

Line managers have frontline responsibility for mitigating the impact of employee personal issues, but many find they do not have capacity.

“Managers can find employee personal issues difficult to deal with,” Jennifer explains, “especially task-focussed managers for whom personal priorities interfere with productivity and performance. If they can’t or won’t recognise and relate to an employee and what that employee is going through, their response may be unsuitable. For example, mental health issues are often avoided, dismissed or penalised as excuses for weakness or inadequacy.”

The abdication of responsibility, by employees as well as managers, may force a stalemate, or compel them towards formal procedure, either to expose the problem and ‘seek justice’, or for its perceived safety and stability. However, traditional grievance methods represent a risk in themselves.

### **No winners and no way back**

“Managers and employees can feel more comfortable and safeguarded by defaulting to formal procedure,” says Jennifer, “because it is a recognised ‘official’ course of action that follows a clear and understood structure. However, many do not fully appreciate how unsympathetic a system it is, what it will demand of them and what the consequences and side-effects may be. The personal and professional risks are profound, especially in situations with volatile personal issues at root.”

The machinery of formal process can get in the way of the potential for true resolution and healthy outcomes. In particular, formalised disputes introduce potent adversarial dynamics that can trigger loss of privacy and control for those already vulnerable individuals.

“Mediation is conducive to healing. It gives people time and space, and helps them to engage constructively with what went wrong, before helping them to learn from this and make it right.”

“It takes the situation out of the hands of those involved. It feels invasive and done to them. Both parties can feel disempowered, exposed, alienated and that they must protect themselves at all costs. As other parties become embroiled, and rumours and gossip proliferate, the impact can ripple outwards while the core issue solidifies. Whatever the outcome, there is no winner and no way back.”

Formal grievance process can also be disruptive and costly to the organisation, more so if the case escalates to employment tribunal.

The challenge to employers is to improve awareness of what is affecting employees and respond carefully, appropriately and effectively – balancing employee needs with the needs of the organisation and service delivery.

### **Resolution through communication and cooperation, not confrontation and conflict**

Workplace mediation is more appropriate than traditional methods for dealing with situations prompted by personal problems. Where there is need for resolution, mediation invites communication, a sense of common purpose and cooperation, rather than confrontation and conflict. Easier and less costly to operate, it focusses on personal ownership, meaningful reconciliation, preserved dignity and the restoration of relationships and performance.

In workplace mediation, participants untangle and examine the details of their situation to diagnose it and develop a solution, not by studying evidence and apportioning blame, but by recognising and analysing key personal, behavioural and psychological factors.

“Mediation is conducive to healing,” says Jennifer. “It gives people time and space, and helps them to engage constructively with what went wrong, before helping them to learn from this and make it right. Participants become immersed in a structured, honest conversation not compromised by any agenda, hierarchy or status.

“The empowering security and authenticity of mediation encourages people to lower their defences and move from their comfort zones, opening their minds and allowing themselves to empathise and understand.

“They can stabilise their thoughts and feelings, put things back into context, examining their own motivations and justifications and reconnecting with shared interests and responsibilities. Many experience a ‘dawning’ effect when misconceptions are disproved or any personal contribution to the problem becomes evident.”

The role and presence of the mediator is a key factor.

“The mediator is independent and impartial,” says Lisa. “They take no sides and treat both parties equally and supportively, facilitating meaningful engagement in the process. Participants quickly realise they have freedom to share thoughts and feelings in confidence and without fear of repercussion. A colleague or manager can’t ‘unknow’ what they are told, but with a mediator they can talk things through and self-reflect in a safe environment. People volunteer private and revealing information they would never share formally. This opportunity alone can be powerfully cathartic.”

The shared nature of mediation and focus on co-creation of personal strategies is often the catalyst that realigns the participant mindset and enables breakthrough. As Jennifer explains:

“Mediation provides a mechanism to engage with a potential issue, explore its impacts and build awareness and understanding in a way that builds trust. This approach enables managers to pre-empt issues responsibly, discreetly and with greater likelihood of positive resolution and increased loyalty.”

“We challenge people to start thinking together and not separately. We talk about drawing a line and moving forward and how they can contribute to achieving this. People often find they have more in common than expected. It encourages them to work cooperatively for a common goal rather than seeking fault and blame.”

### **Enabling more positive and innovative outcomes**

Satisfaction of both parties can include surprisingly straightforward personalised solutions for which formal procedure is rarely conducive.

“Sometimes all the complainant really wants is someone to listen to them or an acknowledgement or apology,” says Lisa. “Similarly, the ‘accused’ may feel a need to clear the air by expressing their regret or explaining their own pressures. Delivering and accepting an authentic apology is not easy, though, especially when subject to work and role-related pressures. Mediation provides a much more accessible opportunity to apologise. In mediation, people are far more likely to admit error or fault than in formal process, when doing so could put them at risk.”

Once out the other end of the process, participants usually find themselves in a more positive frame of mind. The stress and anxiety is behind them. The workplace issue and any conflict that had developed has been resolved.

“The relief and sense of positive momentum is palpable,” says Jennifer. “Both may feel more confident and perhaps more professional because they have taken ownership of the situation and co-engineered the outcomes. Their focus shifts to long term delivery of their solution. Sometimes people adopt mediation techniques into their plans – dedicated time to speak without interruption, for example – to help keep them on an even keel and stay tuned to learnings from the mediation process.”

Mediation often has a broader impact on those who experience it, helping to encourage real listening, improved self-awareness, relationship skills and ability to recognise and mitigate potential risks, whilst promoting early, informal and constructive communication, and resolution when necessary.

### **Pre-empting issues responsibly, discreetly and with greater likelihood of success**

The use of mediation is not limited to addressing ‘live’ conflict. It can also be applied as a means of more carefully and sensitively investigating suspected personal issues impacting at work, as well as helping to identify how the organisation can appropriately support its employees.

“An employer should not *expect* employee disclosure of personal issues,” advises Jennifer, “but they should be alert to the potential reach and risks of influential factors arising outside of work. Whilst awareness of an issue may set challenges, it’s a much stronger position to be in. Early and appropriate intervention can prevent a lot of unnecessary distress and disruption.

“Employees having a tough time tend not to see their employer as a source of support, and managers are often uncertain about providing it. Mediation provides a mechanism to engage with a potential issue, explore its impacts and build awareness and understanding in a way that builds trust. This approach enables managers to pre-empt issues responsibly, discreetly and with greater likelihood of positive resolution and increased loyalty.”

### **About East Midlands Councils**

East Midlands Councils (EMC) is the consultative forum for local authorities in the East Midlands, representing their interests to Government and national organisations and providing a strong voice for the region.

EMC are a not-for-profit-organisation that exists to help organisations deliver better outcomes with and for local people. They enable councils to work together on key issues of common concern and help them develop their workforce and leadership and improve their services.

Forty-five of the region's local authorities are EMC members. Their governance is provided by an Executive Board of councillors from across the region.

EMC have a proven track record in effective learning and development interventions, including successful CPD programmes for environmental health, planning and housing officers, and skills-based programmes and conferences linked to learning and development objectives for individual authorities.

Authorities in the East Midlands are increasingly using mediation to resolve conflict and the EMC external mediation service can provide this support for them.

### **About South East Employers**

South East Employers (SEE) is an independent and not-for-profit centre of excellence, advising and supporting employers. They are a leading provider of high quality consultancy and learning in areas of organisational change, leadership, compliance with employment law, governance and local democracy. As a central 'hub', they are a forum for networks, partnerships and shared learning. They aim to add value through their wealth of local knowledge, experience and professional expertise regarding the challenges and opportunities facing organisations today and tomorrow.

Since 2010 SEE have trained over 270 mediators and delivered over 60 successful mediations for a range of employers. They are regularly called upon to deliver mediation training and complex mediations in other regions.

The SEE mediation programme is designed and delivered to take account of real and increasingly complex workplace situations. It develops confident and mediation-ready mediators who can gain an ILM certificate on successful completion of the course and assignments.

[www.seemp.co.uk](http://www.seemp.co.uk)