

Mediation Review

Report of the Chief Fire Officer

For further information about this report please contact Alan Taylor, Chief Fire Officer, on 01743 260225 or Natalie Hill, Equality and Diversity Officer on 01743 260236.

1 Purpose of Report

To provide the Human Resources (HR) Committee with an overview of the current mediation process and to provide recommendations regarding this scheme.

2 Recommendations

The HR Committee is asked to:

- a) Note the contents of the report; and
- b) Agree to the recommendations as detailed in this report to source an external mediation provider

3 Background

The HR Committee requested that a review of the mediation process be undertaken and that the following were taken into consideration during this process:

- Process and Brigade Order to be reviewed
- Referral form
- Terms of reference
- Written agreement for both parties
- Written agreement on the final outcome (if appropriate)
- Whether capability and performance issues should be included in the mediation process
- Gatekeeper for the process

4 Current Situation

Shropshire Fire and Rescue Service (SFRS) currently have an internal mediation team trained to undertake cases, a total of 5 staff have been trained to undertake these. However, of these 5 mediators, only 1 of these is used on a regular basis. The current mediation process allows employees to choose who undertakes their mediation case.

As only 1 person has been used regularly this causes difficulties with skills being unused as it is necessary to have a minimum number of hours per year to maintain competence to undertake mediation effectively (around 2 cases per year or 15 hours). Therefore the other 4 mediators will no longer be viable mediators. The current mediators have not had refresher training for some time and this would be necessary if these were kept.

The number of mediation cases SFRS undertakes on an annual basis is approximately 1-2 per year. These cases have taken between 14 – 26 days in duration in total to undertake (these were particularly long and difficult cases). This time is then taken away from the internal mediators normal working duties.

Under the original Brigade Order the mediation scheme is suggested as the first stage before a grievance should be submitted. Parties are however not always willing to agree and existing legislation regarding Discipline and Grievance requires us to progress a grievance if it is raised as such. The legal situation is however due to change and is explained further at section 5 below.

Difficulties with internal mediation:

- Mediation has not been taken up early enough and this has then made it difficult to come to a resolution for both parties;
- Duration of cases on workloads for SFRS staff;
- Staff members being allowed to choose their mediator and therefore not all mediators are being used equally and so are not maintaining their competence;
- In small organisations such as this where there are close working relationships across the organisation, some employees may have some concerns regarding confidentiality / impartiality using internal mediators;
- Cost to the organisation of time for internal mediators; and
- Cost of training internal mediators (see breakdown later in this report)

5 New Legislation

When deciding whether SFRS should use mediators it is important to review the current legislation and best practice advice in this area. The new discipline and grievance procedures due to take effect from April 2009 now recommend that:

Employers and employees should always seek to resolve disciplinary and grievance issues in the workplace. Where this is not possible employers and employees should consider using an independent third party to help resolve the problem. The third party need not come from outside the organisation but could be an internal mediator, so long as they are not involved in the disciplinary or grievance issue. In some cases, an external mediator might be appropriate.

(ACAS, Draft Code of Practice 1, page 2).

Organisations may wish to consider dealing with issues involving bullying and harassment or whistle blowing under a separate procedure.

(ACAS, Draft Code of Practice 1, page 2).

Employers and employees should always seek to resolve disciplinary and grievance issues in the workplace. ..Mediation is a voluntary process.... Mediators may be employees trained and accredited by an external mediation service who act as internal mediators in addition to their day jobs. Or they may be from an external mediation provider.

(ACAS, Draft Discipline and Grievance at work: The ACAS guide, page 6)

This would suggest that it is essential to have some form of mediation scheme in place whether internal or external.

6 Types of Mediation available

Internal mediation

The current mediation training was undertaken some time ago and will now require updating. A new process of recruiting internal mediators would need to take place and these would then have to be trained and a support mechanism introduced, along with refresher training as required.

If this option is chosen mediators must:

- Be trained through an accredited scheme
- Have ongoing supervision and continuing professional development programmes
- Receive ongoing support and supervision

Benefits

- Building skills of internal staff
- Could be cost effective if number of cases rise dramatically

Disadvantages

- Cost of training initially and retraining when staff leave
- Time required to undertake mediation
- Time required to support mediators
- Mediators may not have enough cases to maintain competence
- One mediator gets used more than others
- Refresher training maybe required

External mediation

There are a host of external mediation providers which can carry out external mediation on an ad hoc basis. These will be trained by their own organisation and receive all the support they require such as continuing professional development. SFRS would need to have a mediation co-ordinator to oversee this arrangement.

Benefits

- Removes any question of impartiality
- Experts in conflict resolution
- Competency is maintained
- Support is received from their own organisation
- Reduces time of SFRS employees to undertake mediation
- Timescale of mediation process should be reduced dramatically

Disadvantages

- Costs can be expensive if numbers of cases rise

Practical issues to take into consideration

With either of the above options it will be necessary to give managers training on the role of mediation and when it is appropriate to go down this route, for referral to either internal or external mediators. Also a mediation co-ordinator (Equality and Diversity Officer) will be required to oversee either of these options, and a senior HR professional (HR Manager) to act as a gatekeeper where required.

As the number of cases is relatively low, this will make it difficult for mediators to maintain competency and if the same mediator is used regularly this will impact on their work commitments.

There is a leaflet available about the current mediation scheme and therefore for either option a mediation policy needs to be developed and communicated.

7 Cost analysis

A number of providers have been contacted with regard to training internal mediators and to provide an external mediation process.

Given below are approximate average prices (a detailed breakdown of individual providers is available on request):

Internal mediation

A team of mediators would need to be recruited and trained.

Cost of training 8 people is approximately £9,555.

Cost of time away from current duties (based on previous data) £3,000.
Refresher training may also need to be undertaken.

Totalling **£12,555**

External mediation

This would be on an ad hoc basis

1 day mediation costs £878, the average length of mediation is 2 days (according to the external providers), costing £1,756 per case.

It is estimated that SFRS would require these services for 3 cases per annum, totalling approximately 6 days, costing **£5,268** per annum.

Training managers

2 day mediation awareness course (required for either option) approximately **£2,500**.

8 Options and recommendations

Options available

- 1) Internal mediators only
- 2) Internal and external mediators
- 3) External mediators only

Recommendations

To progress with option 3

This is not only the most cost effective option but also the most efficient way of undertaking mediation and will be seen as impartial. It is hoped that an external provider will encourage more staff to undertake this at an earlier stage, which will help to resolve issues at a lower level. If this is the case this will then reduce the amount of time mediation is required and help to reduce the number of cases that then proceed to grievance level.

The following actions will need to undertaken if this option is agreed:

- 1) To source an external provider for mediation services.
- 2) Ensure budget is sufficient to cover needs.
- 3) A mediation policy to be produced which will detail the aims, outcomes and process of mediation; this will also include the following:

- Statement of confidentiality
 - Mediation referral form (to be sent to the mediation co-ordinator)
 - Mediation agreement form (for both parties to sign)
 - Mediation outcomes agreement form (at the end of the process)
 - Evaluation questionnaire
 - Review of what cases are appropriate for mediation e.g. capability
- 4) Arrange training for managers to ensure understanding of process and referrals and to help resolve low level conflict.
 - 5) Early intervention is a necessity; this will be achieved by giving an understanding of the process to staff and managers.
 - 6) After 1 year review whether external mediation is cost effective and appropriate.
 - 7) After 1 year review the external scheme provider

To implement this scheme along with the appropriate training will take up to 6 months, with costs being incurred during the middle of 2009.

9 Financial Implications

If recommendation three is implemented this will be approximately £5,268 per annum (3 cases of 2 days).

Mediation awareness for managers, 2 day course £2,500.

Totalling £7,768 per annum for the first year, then between £3,512 (2 cases) – £5,268 (3 cases) per annum.

We have consulted with the Principal Accountant and are confident that these costs can be met from within existing budgets

10 Legal Comment

The current Statutory Dispute Resolution Procedures (the “SDRPs”) will be replaced by an ACAS Code of Practice which should come into effect on 6 April 2009. The Code allows (but does not oblige) Employment Tribunals to adjust any compensatory award by up to 25% for any unreasonable failure to comply with the Code. The new Code suggests disputes could be resolved by a mediator. The proposals contained in this paper comply with an Employer’s obligations under the Code.

11 Equality Impact Assessment

An Initial Equality Impact Assessment has been completed and is attached to this report.

12 Appendices

There are no appendices attached to this report.

13 Background Papers

There are no background papers associated with this report.

Implications of all of the following have been considered and, where they are significant (i.e. marked with an asterisk), the implications are detailed within the report itself.

Balanced Score Card		Integrated Risk Management Planning	
Business Continuity Planning		Legal	*
Capacity		Member Involvement	
Civil Contingencies Act		National Framework	
Comprehensive Performance Assessment		Operational Assurance	
Efficiency Savings		Retained	
Environmental		Risk and Insurance	
Financial	*	Staff	*
Fire Control/Fire Link		Strategic Planning	
Information Communications and Technology		West Midlands Regional Management Board	
Freedom of Information / Data Protection / Environmental Information		Equality Impact Assessment	*



Directorate	HR, Training and Dev	Department/ Section	HR
Name of officers completing (minimum of 2)	Natalie Hill and Lisa Vickers	Job title	Equality and Diversity Officer & HRM
Name of Policy/Service/Activity to be assessed	Mediation review	Date of assessment	27/01/09
New or existing policy	E		

1) Briefly describe the aims, objectives and purpose of the policy/service/activity (referred to as policy in document) and also consider the following:

- What are the key performance indicators?
- Who is intended to benefit or be affected by it? (is this positive or negative)
- What outcomes do you want to achieve from this policy?

This report details the current situation regarding our internal mediation process; the mediation process is an informal way of resolving low level conflict within the organisation. Internal staff receive this service as an informal process, the purpose of this is to resolve issues efficiently and effectively so that all parties are happy with the outcome and can work together. Effective mediation will reduce the number of grievances as they will then not proceed to this stage.

The outcome of this report is to suggest recommendations that are effective and cost efficient for both employees and for SFRS.

1 a) Who implements this policy? Currently the EDO/HR and line managers will suggest mediation for those staff that require this; it is currently undertaken by staff that have been trained internally.

2) How does your current policy meet the needs around age, disability, race, religion/belief, gender, sexual orientation and caring responsibilities?

Are there any obvious barriers to accessing the service? E.g. physical or other.

No current barriers regarding this service with regard to any of the 6 strands. This report is reviewing the process and when a new policy is written an impact assessment will also be undertaken on this.

The only barriers to the service are that there is not a mediation policy at present and so the creation of this will make the mediation more accessible to all staff.

2a) Where do you think improvements could be made?

Internal improvement to process but not affecting the 6 strands

2b) Have issues of equality been identified in this area of service delivery by SFRS?

Not equality issues, but areas regarding timescales.

3) Have we had any specific feedback or complaints on this

None to date.

area? Is there evidence that this has come from any of these specific groups: race, gender, disability, religion/belief, age, sexual orientation, caring responsibilities?				
3a) Do we have any feedback from managers or frontline staff on this policy?	In some cases mediation has not worked for all people and needs to be implemented at a much earlier stage.			
3b) Is there any feedback from voluntary/community organisations?	n/a			
3c) Is there any research / models of practice that may inform SFRS view?	Research has been undertaken with other fire services and external organisation regarding mediation best practice along with ACAS, CEHR for their recommendations in this area. External providers have also been contacted regarding their external mediation schemes.			
4) Detail the Actions / Improvement areas you have identified, or the need for further research. (These must be put onto the Action and Improvements Form FB 367 for consideration by Steering Group) If you have found considerable actions or research this will require you to proceed to a full assessment.	None for equality but improvements to the mediation scheme as per the recommendations in this report.			
5) Should the policy now proceed to a full impact assessment?	<table border="1"> <tr> <td></td> <td>N</td> <td>None identified that link to equality.</td> </tr> </table>		N	None identified that link to equality.
	N	None identified that link to equality.		

I am satisfied that this policy has been successfully impact assessed. I understand the Impact Assessment of this policy is a statutory obligation and that, as owners of this policy, we take responsibility for the completion and quality of this process.

Line Manager	Lisa Vickers	Date	05/02/09
Please note that this impact assessment will be scrutinised by the Equality and Diversity Officer.			

Appendix D

Equality Impact Assessment Actions and Improvements Form

When you have completed the Equality Impact Assessment a number of actions or improvement areas will have been identified, it is important that these are captured and put into normal work activities. In some cases there maybe a few small actions required in other cases you will need to process to a full impact assessment, you will need to complete this form for both of these situations when you identify actions that need completing, or have identified that future investigation will require specific resources that need to be put into the business planning process.

This form is to allow you to record the outcome from your impact assessments so that the actions or improvements can be carried out by your Department and monitored and in some cases approved by the Equality and Diversity Steering Group. Please ensure that this form is given to your line manager for discussion at your team or one to one meetings for incorporation into individual work plans.

Directorate:	Department:
Brigade Order/activity that has identified need, issue/objective:	EQIA No:

Action	Comments inc. Details of Consultations required/carried out	Resources / Finances allocated to this objective/target	How will this be monitored to ensure it is effective	Responsible for this action	Due Date	Progress

Head of Department		Date completed	
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This form must be sent to Management Support when completed for monitoring and/or consideration by the Equality & Diversity Steering Group