



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. In this edition the 'big news' is the Supreme Court's ruling on Employment Tribunal fees and I consider the impact on workplace mediation. There are also a couple of 'good news' stories where mediation has been used successfully in the healthcare sector.

Marc Reid

Supreme Court rules Tribunal fees unlawful



In an unexpected ruling the UK's Supreme Court determined that Employment Tribunal fees introduced by the Government in 2013 are illegal. (click [here](#)) The decision was the final twist in a long running attempt by UNISON to challenge the fees as being discriminatory. The Government has yet to announce whether they will change the system or abolish it completely. The interesting issue this raises is how it might affect the use of workplace mediation. In my view the impact will be minimal. If used correctly mediation will be tried long before the situation has deteriorated to the point where a Tribunal claim is being raised. The imposition of the fee system in 2013 did not have a noticeable impact on the use of mediation so it is unlikely that the removal or change of the system will have an impact either. As the Government cannot now use fees to reduce Tribunal numbers then perhaps it should put more support behind mediation to achieve this!

Success of workplace mediation scheme at Barts NHS Trust

It is always good to report a case study of where workplace mediation has been introduced successfully into an organisation. (Click [here](#)). The Barts Health NHS Trust (the largest Trust in England) was formed from a merger of several organisations in 2012. As part of the change process the Trust introduced workplace mediation via its EAP. Increasingly EAP providers are offering a workplace mediation service as there is a clear link between the counselling services that an EAP typically provides and mediation. It is helpful to an organisation if the EAP can offer this additional service. Barts went one step further and with the EAP providers support they set up a full internal mediation scheme and significant savings have resulted, not least an estimated £200K per year in legal fees.

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

Tel: 07870 444444

Email: enquiry@mediation4.co.uk

Avoiding hospital conflict

The recent case of Charlie Gard reminded us of the terrible situations that can arise when medical staff and the patient's family come into conflict. This BBC article (click [here](#)) highlights how a pioneering approach aimed at avoiding such situations is being trialled with great success. At Evelina Children's Hospital in London staff are trained to help prevent conflict situations arising, and when they do arise, to act early and prevent escalation. The key is communication which sadly becomes an early casualty when resources are tight and everyone is working under great pressure. But the evidence from this trial points to the enormous benefits gained from training around raising awareness of potential conflict indicators, communication skills to allay concerns and, when appropriate, using expert mediation support.

Is employee fear preventing them trying mediation?



This insightful article in HR Magazine (click [here](#)) explores why employees may be reluctant to engage in mediation. The writer suggests that it

could be the result of the 'fear factor' and details four potential areas which could lead employees to be afraid to participate. Whilst I acknowledge that these ring true, all can be overcome through a good briefing with an informed HR representative or with the proposed mediator themselves. The greater barrier is in accessing employees in the first place. We need to spread awareness of mediation and how widely it can be used, especially amongst the HR community, so that they suggest it to employees as a possible approach when it is appropriate.

Website: www.mediation4.co.uk

5 steps to resolving a conflict

 My latest blog (click [here](#)) was prompted by an article in the CIPD's People Management Magazine (click [here](#)). The article highlighted that our traditional 'formal' processes of dealing with grievances are not necessarily the best way of handling relationship issues. I can't agree more. Whilst formal processes may be fine for finding out what happened, the focus remains on the past. To work out how those involved will work together in the future requires a different approach. Of course you can turn to an external mediator but for low level conflict a skilled HR person should be able to address it themselves once given the right tools. My blog talks about one such tool, my 5 phase AGREE model which is a step by step mediation style approach to nipping low level conflict in the bud.

Is there an argument for compulsory mediation?

There has long been a debate about how we encourage the take up of mediation. The argument has tended to be 'people are largely unaware of the benefits of mediation and as they become aware of it the logic of using it is irrefutable and use will increase'. As this article in the Law Society Gazette (click [here](#)) points out though, when it comes to commercial mediation, the take up of voluntary mediation has been slow. Cynics would suggest that this is because access is generally controlled by the legal profession and greater take up would see them losing litigation business. So one argument being proposed is the use of compulsory mediation. I'm against this — a key reason mediation is so successful is that participants go into it voluntarily with the intention therefore to at least give it a try.