

MEDIATION POLICY

PREAMBLE

- The University recognises that a positive working environment and positive working relationships can have a positive impact on staff and student well-being. It can also lead to better performance, improved employee retention and reduced stress-related absence.
- The University also recognises that conflict in the workplace is normal and expected and when it does we wish to support staff and managers to work together to resolve disputes and conflicts.
- The aim of this policy is to provide individuals or groups with a framework for resolving conflicts in a way which is impartial, objective, and part of a transformative approach in responding to, and providing a healing environment for restoring and maintaining healthy working relations at the workplace
- The mediation process will primarily be offered as a tool where two or more parties are in dispute. The aim is to resolve conflict at the earliest possible opportunity and to encourage the parties to resolve their differences without having to go through a formal process such as the Grievance Procedure. Managers, supervisors and Trade Union Representatives can assist with this aim by supporting and encouraging members to engage with mediation as a way to resolve conflict at the earliest opportunity.

1. INTRODUCTION

- 1.1 This document outlines the mediation principles and procedure which will be used by UCT's internal mediators. In cases where mediation is provided by the University, or by an external mediation provider (where recommended by the Office of the Ombud), the principles of mediation will remain the same, although the procedure may be different.
- 1.2 Mediation is an agreed process, entered into voluntarily, in which independent intermediaries assist participants who are in dispute to reach a settlement of that dispute. Mediation is a separate process from the Grievance Procedure, and aims to move away from adversarial procedures and resolve issues as early as possible.
- 1.3 Mediation may be used before invoking the formal procedures or at any stage of the formal procedures where the parties agree that engaging in the mediation process may resolve some or all of the issues.
- 1.4 The aim of the process shall be to seek an early resolution of the issues by:
 - Identifying common aims, objectives and interests;
 - Re-establishing lines of communication; and
 - Developing proposals for settlement.

2. GENERAL PRINCIPLES

- 2.1** Mediators will maintain complete confidentiality and the parties will be asked to sign a confidentiality agreement and guidelines. None of the parties to the process may be required to give evidence during a formal investigation about anything said at mediation.
- 2.2** Mediation is non-prejudicial and the parties do not waive their rights to access other procedures or processes by agreeing to participate.
- 2.3** Mediation is an informal process which is often more effective if the parties involved in the dispute engage unaccompanied in discussions with and through the mediators. However, staff may, but need not be, accompanied by a colleague of choice. Legal representation is not permitted.
- 2.4** Not all issues or circumstances are suitable for mediation. The mediators will assess the case at the initial meetings and advise the parties if it is appropriate to proceed. The parties may also decide at this stage that mediation is not suitable for them.
- 2.5** The parties cannot enter into any agreement that may modify or impinge upon their own or another's employment rights, or that might alter the terms of employment contracts.
- 2.6** Either party may pause or end proceedings at any stage and revert to the formal procedure.

3. ROLES AND RESPONSIBILITIES OF PARTIES INVOLVED IN MEDIATION

3.1 Staff & Students

Parties to mediation are voluntary participants in the mediation process and agree:

- To engage positively and meaningfully in the process
- To respect the dignity and feelings of the other party
- To use the process in good faith with a view to improve relationships
- To be honest and truthful in the meetings with the mediator
- To use the mediation process for contributing to a environment where staff and/or students are able to achieve their own potential to work and learn, as well as to recognise the potential and humanity in others

3.2 UCT

- The University agrees to allocate a sufficient period of time for the completion of the mediation process and meet the direct costs arising from the process.

3.3 Mediators

- The Office of the Ombud and Discho (or assisted/supported by Discho) will be responsible for the training of mediators and management of the arrangements for the entire mediation process.

- At the initial stage, the mediator/s will forward a copy of this document to both parties, and will meet separately with them, to assess the suitability of the issues to mediation and the readiness of the parties to participate. They will explain fully their role and the mechanics of the mediation process.
- The mediators do not reach agreement for the parties nor do they make a determinative adjudication.

3.4 Availability of Mediators

The Office of the Ombud will provide internally trained and experienced mediators, or with other available resources, or, where recommended by the Office of the Ombud, an external mediation provider.

4. MEDIATION PROCEDURE

- 4.1 A party involved in a dispute or grievance with another member of staff, (including a student) should initiate the mediation process by directly communicating to the Office of the Ombud. Any request of this nature that has been received by any other department, faculty or unit of the University shall be forwarded to the Office of the Ombud.
- 4.2 Upon receipt of agreement from the parties the Office of the Ombud shall liaise with HR and Discho, which will provide an independent mediator, who will have had no previous involvement with the issue/s.
- 4.3 The mediator will communicate both parties advising of the date/time/venue of the initial meetings and provide information on the mediation process. This will normally be within 10 working days of the formal notification to the Office of the Ombud.
- 4.4 Meetings with the mediators will be held in a neutral venue. Parties involved in the process will be allowed reasonable time, at work, to prepare and participate in the process.
- 4.5 The mediators will meet with each party separately to outline the process and ascertain the details of the issue/s to be resolved.
- 4.6 Not all issues or circumstances are suitable for mediation and an assessment should be made by the mediators at the initial meetings on the suitability of each case for mediation. Where they consider mediation would not be appropriate they shall advise the parties who may then decide to proceed by invoking the formal procedures. The parties may also decide at this stage that mediation is not suitable for them.
- 4.7 The mediators will facilitate a process that will enable the parties to identify, discuss and prioritise the key issues and to enter into a negotiation process with each other about options for resolution and how they can move forward.
- 4.8 If necessary, the mediator will assist the parties to draw up an agreement, if one has been reached. This agreement is confidential to the parties unless they agree to share it with the University (in some instances, for example, the agreement may include a request for action from the University). The University will be notified by the mediator as to whether an agreement has been reached through the Office of the Ombud..

4.9 During the process the following principles will be adhered to:

- All meetings are confidential. The only exception to this rule is where there is evidence of a serious breach of Statutory/University rules or policy or where there is evidence of serious risk to health and safety. In those circumstances the Office of the Ombud will have the discretion to terminate the process.
- All parties have the right to withdraw from the process at any time.
- Mediation is voluntary and is not legally binding.

4.9 Any personal notes taken by the parties or the mediators during mediation are to be destroyed at the end of the process.

4.10 The Office of the Ombud will receive a statement of outcome between the parties as facilitated by the mediator. This is solely for the purpose of identifying any resource implications for the school and planning their implementation. The Office of the Ombud will also be advised of any review date for the parties.

4.11 Where mediation has been unable to resolve the matter/s, any party to this process may choose to proceed through the formal procedures.