

Welcome to the twenty-first century: informing HR decision-making about workplace mediation

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Introduction

HR practitioners and mediators work very closely together when arranging for mediation to address conflict and disputes. However, rather than viewing mediation purely as a process, I propose that we need to recognise that the analysis of conflict is initially done by HR practitioners. With that in mind, this article shares research findings from workplace mediators in Ireland to inform HR practitioners in their decisions to use workplace mediation effectively.

If we are going to develop an effective vision for, and return on investment from, workplace mediation in organisations ([Brubaker et al 2014](#)), we need to develop our understanding through research ([Bollen and Euwema 2013](#)). This article specifically focuses on the interplay of engagement and decision-making between the two key professional groups who facilitate workplace mediation in organisations.

Workplace mediation in the twenty-first century: a growing trend

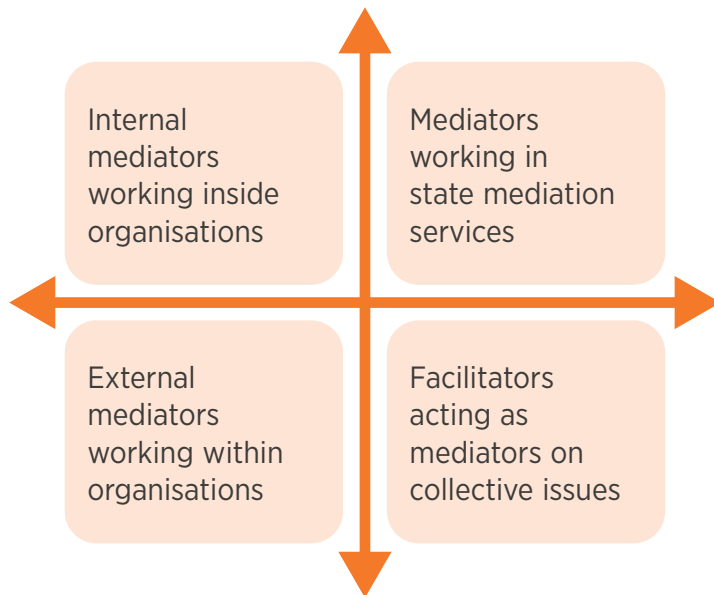
- This research project set out to establish the reality of workplace mediation practice in the twenty-first century. After looking at what had already been written about workplace mediation, it became apparent that there is limited evidence to inform our decision-making. For anyone interested in a distillation of the literature, take a look at an earlier article ([Kenny 2014](#)).
- In Ireland, the state has increasingly encouraged mediation as a process for resolving workplace conflict and disputes and achieving more harmonious work environments. Workplace mediation is first mentioned in Codes of Practice in 2002, when it was largely unstructured and there was no specific training available. Since then it has developed significantly, and by 2010, the benefits of internal alternative dispute resolution (ADR) processes for managing workplace disputes were encouraged as a way to ‘*promote greater transparency within the workplace, procedural protection for the organisation’s reputation*’ ([Irish Law Reform Commission 2010, p99](#)). Research identified the use of external or internal experts in conflict management, although it did not examine the nature of workplace mediation ([Teague et al 2012](#)). For the purposes of this research, I defined workplace mediation as:

a confidential and voluntary process whereby an independent mediator assists two or more individuals, work groups, or employers and trade unions anticipating or experiencing conflict or a dispute with a view to reaching a mutually acceptable agreement.

I opted for a mixed methods research study of workplace mediation in Ireland. I identified the 444 people who said they were workplace mediators (split into groups per Figure 1) and then honed that down to the 241 who had actual mediation experience. I met with 25 of the anecdotally more experienced workplace mediators in the country in six focus groups. I also had the chance to identify workplace mediators based in seven internal mediation services within organisations – employees of organisations, trained as mediators, who engaged in workplace mediation as an additional volunteer activity to their day-to-day roles – and developed case studies of their organisations’ approaches. The Workplace Relations Commission (WRC) mediation service also contributed their experience as part of the research.

Building on all of those research conversations, I developed a questionnaire which was sent to all the experienced workplace mediators identified. Integration of the responses of 144 workplace mediators with the case studies and focus group contributions developed a range of understandings and insights – some of which are presented here.

Figure 1: Four mediator groups in the field of workplace mediation



The current experiences of workplace mediators can inform HR decision-making

There has been increasing use of workplace mediation in Ireland since the year 2000 and growing numbers of mediators in practice since 2009. The state offers pre-adjudication mediation and some in-organisation workplace mediation through the WRC. Mediation is also being provided through internal mediation services or by organisations contracting external mediators across all sectors. Organisations using workplace mediation range in size from two employees to 109,000 employees. Trade unions also generally respond positively to mediation in the experience of workplace mediators (63%).

The relationship between HR practitioners and workplace mediators is apparent in the engagement between them when the HR practitioner hands across the conflict or a dispute. The mediator then designs and delivers an appropriate mediation process. The mediator then hands back the outcome of the mediation to the HR practitioner to facilitate closure on the conflict or, where resolution has not been achieved, to action other procedural steps. This article sets out some insights into workplace mediation to inform HR practitioners' decision-making based on the current experience of workplace mediators in Ireland.

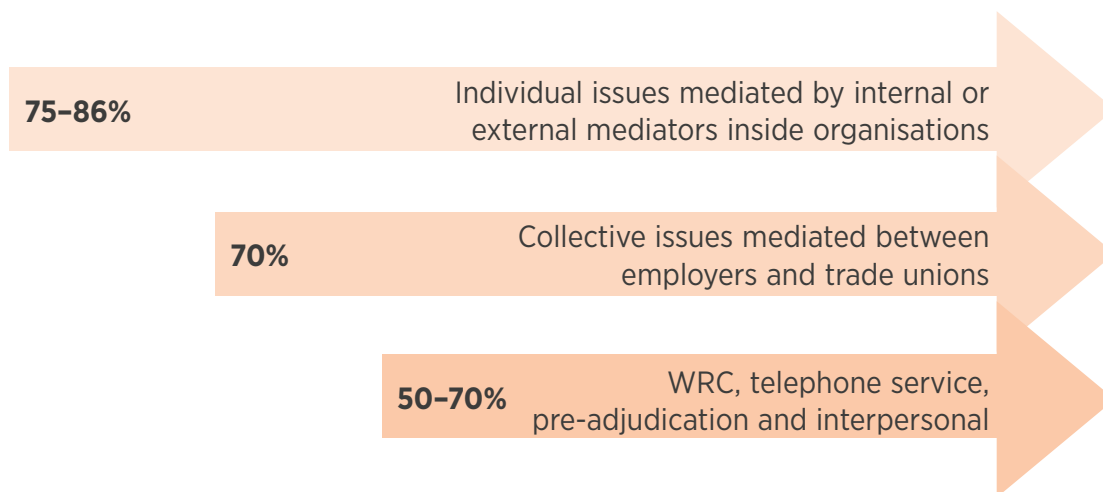
HR are the influencers

The use of mediation in organisations, in the experience of mediators, is through two routes – as an improvised response to an urgent need to address conflict, or as an incremental change where policies are revised to include mediation and internal services, which may be set up by a

'champion' of mediation who has influence in the organisation. The incremental change may gain traction in the organisation through further engagement by HR practitioners and mediators in promoting mediation.

Many mediators (76%) are experiencing 'a real shift', in that people are more aware of mediation and more organisations are offering it. If the aim of mediation is to achieve workable resolution and to settle conflicts and disputes, there is evidence that mediation achieves greater success when it is done quickly and when people in conflict engage directly with each other. Where there is to be an ongoing working relationship, there is evidence of greater success when mediation takes place within the organisation (see Figure 2).

Figure 2: Rates of resolution across the field of workplace mediation



HR practitioners need to make an initial decision to include mediation in their policy and procedures. Some mediators identified that they had worked with HR practitioners to directly influence more recent iterations of policies, so that they include more information on mediation. Mediation is now a part of dignity at work procedures and organisations have changed their procedures to include mediation where complaints of bullying or harassment arise. In the words of one mediator:

I think dignity at work policies are the primary driving force and have been since the late 1990s when the legislation required investigations but prior to that an informal approach and then mediation. Mediation became the step if you like between the informal face-to-face thing and then the formal investigation.

Overall, mediation is being provided under a range of different policies in organisations. The most usual policy in the experience of mediators (84%) is dignity at work (anti-bullying and harassment) with the grievance policy being the next most common (76%). Mediation may also be provided under a conflict resolution policy (45%), disciplinary policy (39%), dispute procedures agreed between employers and trade unions (29%) or absence policy (20%). Some mediators also work within other policies including: a consultation policy; equality or discrimination policy; a dispute resolution policy for a board of directors; a policy between an organisation and service provider; a policy on internet use; or policies on pay grading, job evaluation, pay and holidays.

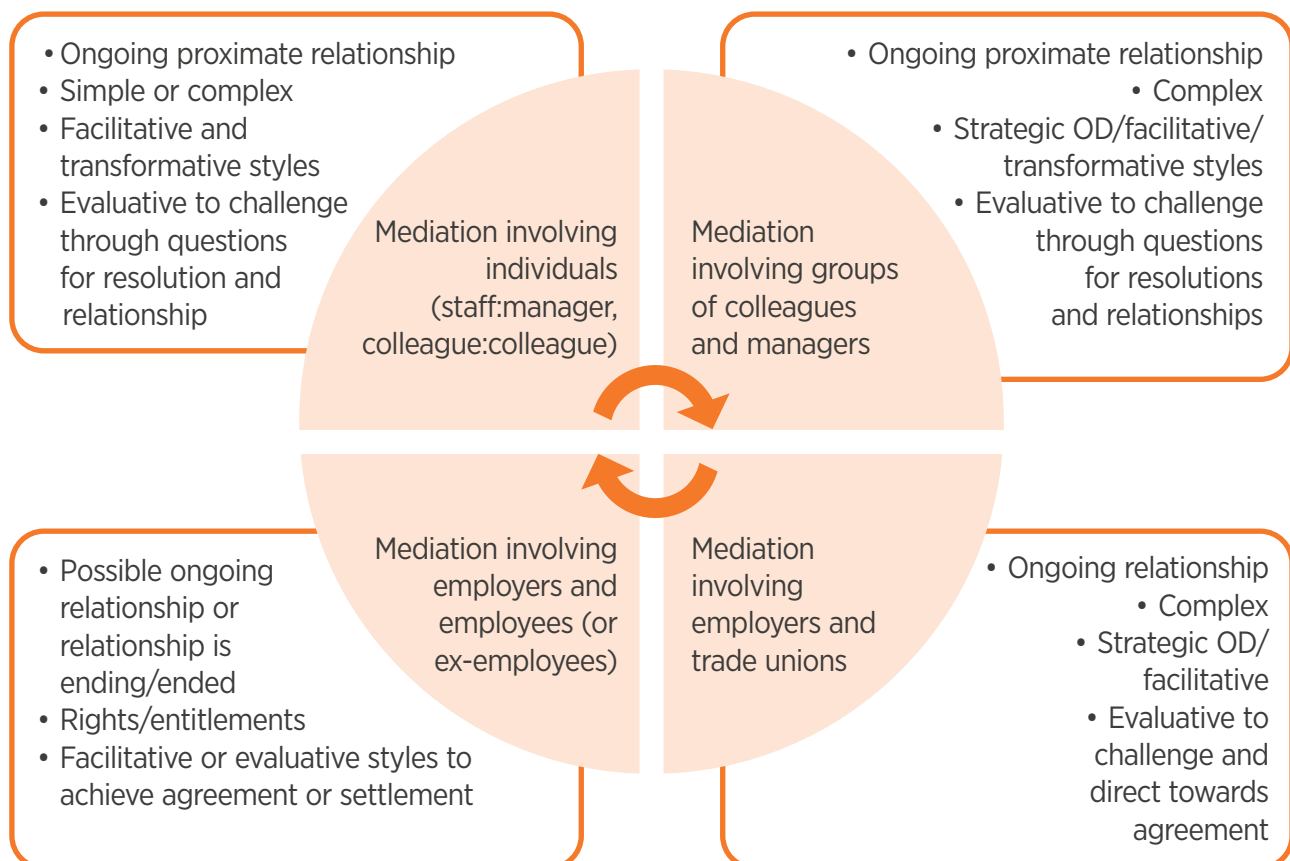
Once mediation is in policies and procedures, HR practitioners need to decide how people working in their organisation will obtain information on mediation. In mediators' experience, people often find out about mediation by word of mouth, through networks of colleagues, friends or family, or by seeking legal advice. Information about mediation is often communicated as a 'one off' when a mediator is appointed. Mediators identified that where there is a lack of understanding of mediation (86%) or mistrust and scepticism (73%), it is less likely to be successful.

Mediators find that the most common ways in which organisations communicate about mediation are through: conflict management or dispute procedures (78%); briefings to managers and staff (49%); through an intranet (47%); training programmes (38%); and through shop stewards (30%). A smaller number of organisations appear to use mandatory information sessions when conflicts or disputes arise (22%). Other ways in which information about workplace mediation is communicated (16%) include dignity at work training or through an employee assistance service. Other initiatives that can be helpful are voluntary information sessions to potential mediation participants and mandatory information sessions with a trained mediator to potential mediation participants.

Analysis of the conflict or dispute

Once mediation is part of organisational policies and procedures, HR practitioners need to consider the type of conflict or dispute that has been brought to their attention (see Figure 3). This means that they need to decide on the most appropriate workplace mediator to engage with to support resolution of issues through mediation.

Figure 3: A situational approach to workplace mediation



Complaints of bullying are the most frequently mediated issue for most of the mediators in Ireland. The next five most frequently mediated concerns are either related to behaviour or working relationships. These include poor communication, lack of co-operation or refusal to work together, and lack of respect – and grievances, harassment or discrimination. Some mediators believe there are significant mediation aspects in collective bargaining and that, in reality, collective bargaining is probably more mediation than conciliation.

Mediation is also used for issues such as: performance; where a series of small issues have been left unresolved; where there is general conflict or interpersonal conflict; resolving litigation issues; return to work after absence due to stress; protected disclosure (whistleblowing); and follow-up after a complaint has been addressed at the WRC. There can be a request for mediation to ‘rebuild work relations after an investigation’ so the people involved can ‘get the work done’. Organisations also ask mediators to work with them where conflict exists and the organisation is aware that their employees are, in the words of one mediator, ‘going nowhere’.

HR practitioners partnering with workplace mediators

Mediators build a social network of relationships with and within organisations to support referral to mediation, primarily through HR practitioners. HR practitioners need to decide who is the most appropriate mediator or selection of mediators to propose to the people involved in a particular conflict or dispute. The strength of the relationship between workplace mediators and HR practitioners needs to be built on trust so that internal problems can be handed over to a mediator – professional to professional.

HR practitioners will find that the availability of workplace mediators has increased in the twenty-first century. The number of organisational and workplace members of the Mediators’ Institute of Ireland (MII), the main professional body for mediators in Ireland, grew from 81 in 2007 to 541 in 2013. For some HR practitioners, they may need to decide between asking for the involvement of internal volunteer mediators already in the organisation or contracting an external mediator. Most workplace mediators in Ireland are self-employed (44%) or volunteer mediators (26%) in public and private sector organisations.

HR practitioners, in deciding to partner with a mediator, may also want to establish a workplace mediator’s experience of working with different participants in mediation. The majority of mediators are experienced in mediating between employees (83%) or between employees and managers (80%). When it comes to mediating issues arising between employees or managers and their employer (44%), between managers (36%) and within teams (34%), the experience decreases. The percentage of mediators with experience of mediating between employers and trade unions (18%), at senior management or board level (15%) and across a number of teams (12%) is significantly lower. What emerges from the findings about workplace mediators in Ireland is that they are a diverse and eclectic group.

HR practitioners can provide their organisation with the best choice of workplace mediators by ensuring mediators are trained, accredited and experienced. Workplace mediators in Ireland are 'general practitioners', often combining workplace mediation with a number of other professional conflict engagement activities. The evolution of mediation use, from predominantly employer and trade union labour to more individual or group issues, has led to mediators being situationally flexible in terms of the range of issues they work with. Mediators also design and deliver a process based on the issues and goals of the participants to mediation.

HR practitioners talk to other HR practitioners about their experience of mediators, and mediators find that much of their work comes through word of mouth and referrals. Where organisations have had prior success with mediation, they are inclined to ask the mediator back or to use mediation again. When people have seen it succeed in situations where they thought it would not work, some mediators find further cases being referred to them from that same area. An example was given of a contact from a person who was involved in mediation themselves and who is now in a very senior position in an organisation:

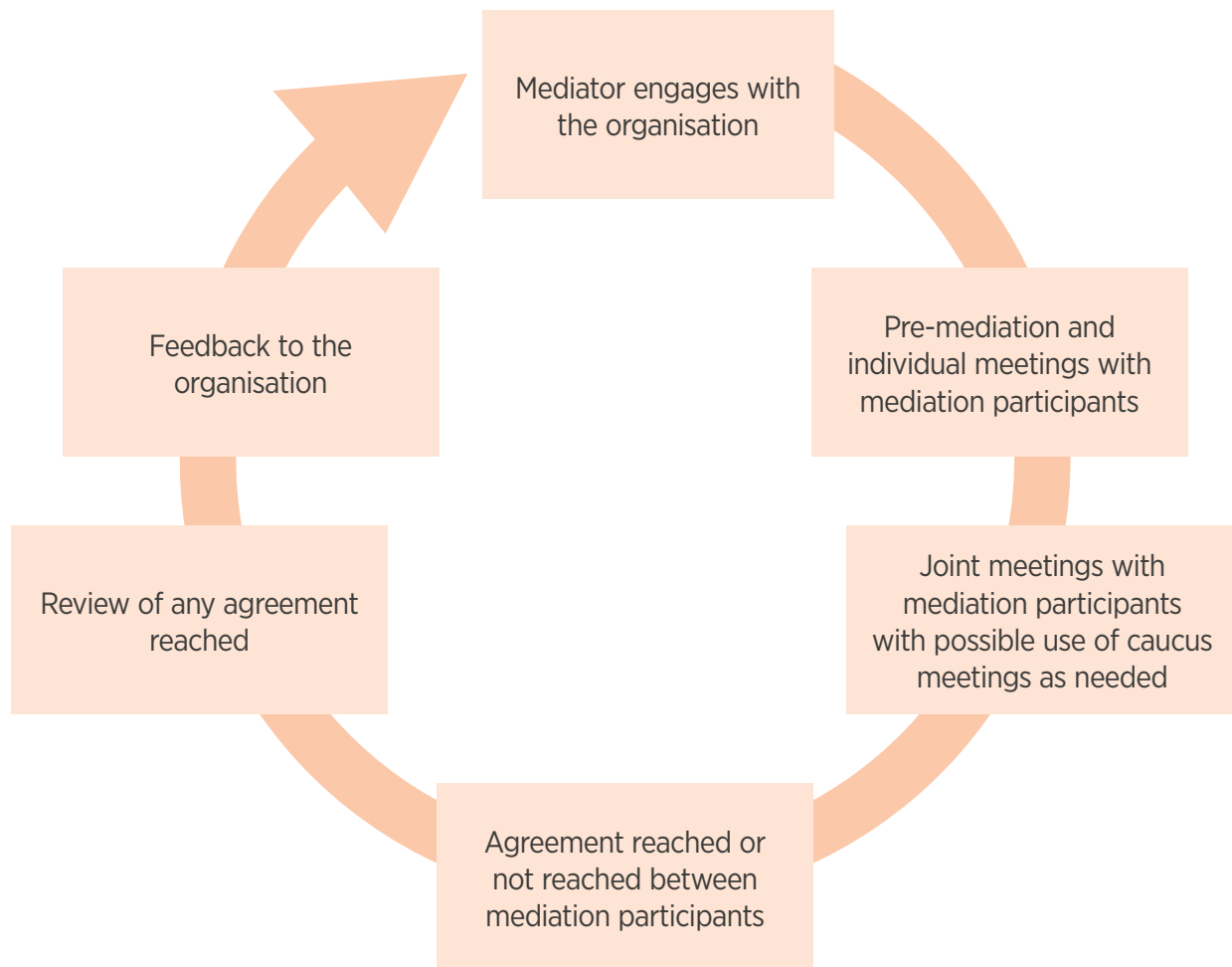
I remember one woman who was very senior, I mediated a case with her and an employee and then, when two other people within her department had issues, she whooshed them over to me really quickly and we got a fantastic outcome, just fantastic; from being really challenging to being fantastic. And then a third situation appeared and she openly said, 'I've had a really good experience with mediation and that's why we're going for this.' And that was involving outside people in it. That was an interesting pattern to see happening.

How will mediation work?

The process of mediation may vary depending on the issues. To allow the HR practitioner to make an informed decision, it is important that they understand with the workplace mediator what the process will include, how they can support the proposed process design and what the organisation needs to know in terms of feedback. There is also the more strategic question of how HR functions evaluate workplace mediation to inform future decisions. This includes the data they maintain to inform decisions related to the cost of conflict and of conflict resolution, as well as the impacts of the conflict and its resolution on performance, productivity and wellbeing in work.

As workplace mediation has evolved to address more individual conflict issues inside organisations, the 'three-stage mediation process' identified in the literature is more commonly a 'six-stage' process in practice (see Figure 4). One in four workplace mediators also have more long-term relationships with HR practitioners where they work together to influence changes in working environments or capacity-building in conflict resolution skills.

Figure 4: Six stages of workplace mediation



Conclusion

The purpose of this article has been to provide insights for HR practitioners to inform their decisions about the introduction and development of workplace mediation in their organisations. The interactions between HR practitioners and workplace mediators before, during and after mediation are particularly relevant when mediation processes relate to ongoing relationships and interests in work.

There is little evidence of evaluation of the mediation process, the mediator, or outcomes from the experience of participants. The two professions can work together to measure the impact of mediation within organisations and bridge a gap in terms of evaluation and feedback. Addressing the missing links in the overall mediation process together can better inform decisions on investment in workplace mediation in the future.

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