

# Workplace mediation and conflict management in ireland

[Business](#), [Management](#)



Mediation is a structured and efficient process incurred by the company in the resolution of disputes. It has an attractive quality to it when the company looks to mitigate risk, reduce expenses and preserve relationships. It is believed that mediation brings about a tremendous reduction in the amount of time and expense associated with the formal adjudication procedures. The aim of this research paper is to analyse and understand the significance of mediation in organisations established in Ireland. There has been research carried out on mediation by Teague, Roche, Doherty, Bouchier, and The Kennedy Institute of Workplace Mediation Research Group. Their work has approached workplace mediation as an idealised concept, which works excellently in improving the organisational culture and has no loopholes or drawbacks. Their reliance on the increasing trend whereby companies are leaning towards mediation for resolving in-house disputes has inculcated a belief that mediation is the right and always the most appropriate approach.

During the research, the researcher aims to evaluate the role and competencies of in-house mediators, as they play a crucial role in maintaining the neutrality factor and assisting the parties in reaching an amicable solution, beneficial to the organisation and the parties involved. The underlying factor for successful mediation is the voluntary initiation by the parties to negotiate their issues, the confidentiality of the entire process per se, and the fact that although the agreement is legally binding it is a mutual decision made by both the parties.

“ Every conflict we face in life is rich with positive and negative potential. It can be a source of inspiration, enlightenment, learning, transformation, and

growth – or rage, fear, shame, entrapment, and resistance. The choice is not up to our opponents, but to us, and our willingness to face and work through them.”

-Kenneth Cloke and Joan Goldsmith

#### INTRODUCTION:

An Irish citizen under the Constitution of Ireland has a fundamental right of access to the courts (Citizensinformation. ie, 2018) but, the trend has shown that majority civil actions commenced in the courts were resolved by agreement between the parties without any judicial determination. This was primarily due to the nature of the civil justice system (Irishstatutebook. ie, 2018). Civil and commercial disputes which are not based on points of law or involve novel issues that necessitate a judicial determination can be resolved by an agreement amongst the parties involved. The factors that contribute to influencing the settlement of disputes in Ireland are limited judicial resources that consequently cause delays in getting the case to trial and the high cost of litigation. (Law Reform Commission, 2010, p 32) In consideration of workplace matters, employers dealt with workplace disputes through a lengthy process of gathering evidence and investigating the matter in detail, which was time-consuming and did not lay emphasis on improving workplace relationships prospectively. This is when mediation was brought in the picture. (Rig and Pienaar, n. d.) The model of mediation is set out in such a way that it inspires a settlement led by the parties per se which in turn encourages collaborative intent and practical solutions.

## BACKGROUND OF WORKPLACE MEDIATION IN IRELAND:

The process of mediation in Ireland was recognised within legal profession on a statutory basis when solicitors engaged to separate spouses were required by statute, since 1989, to convey to their clients the possibility of settling their matters with the help of mediation and provide them with the contact details of either people or organisations that deliver mediation services.

Therefore, even though citizens were unfamiliar with the process, the desire and determination on the part of the government and the judiciary to embrace and inculcate this process were commendable. An excellent example of Irish judiciary's inclination for mediation was observed in the case of *Charlton V. Kenny* [2006] whereby the judge, Justice Clarke, recommended the parties to mediation to maintain their dignity and reputation in society, and resolve their dispute amicably. Further, mediation received a formal recognition when in 2011, the family mediation service was launched as a 12-month pilot project in Dublin Metropolitan district family court. It basically focused on the welfare of children involved in the family dispute, as a dispute not only affects the relationship of the people involved in the dispute but has a pervasive and generally an unintentional influence on people directly or indirectly related to the parties.

The first step for mediation is the agreement of the parties at dispute, to refer their case for mediation. It could, therefore, be rightly stated that Mediation in Ireland is based on contract law and the fundamental principles of voluntariness, privilege independent of any prejudice in communications that take place during or in contemplation of litigation, confidentiality,

neutrality, and impartiality. For instance, Mediation acts as an additional tool to deal with disagreements between individuals in the workplace. It is often described as a form of alternative or informal dispute resolution as it is less formal than grievance and disciplinary procedures and employment tribunals. (CIPD, 2018) It nonetheless follows a structural process. Therefore, mediation is usually resorted to in cases involving personality clashes, or disagreements over certain actions of individuals in a workplace environment. Other important reasons are bullying, harassment, misunderstandings arising out of miscommunications or lack of communication and/or misuse of position at the workplace. (Gorry, 2016)

Further, the management of conflict within an organisation has attracted selective researchers and practitioners to this field and their discussions have gained a certain impetus and coherence. At this point, therefore, it is important to review and evaluate the core components of the research in this field. Initially, companies did not focus much on the human resource aspect of a business, but now they have begun to invest in people management from a more strategic viewpoint. (Teague and Thomas, 2008)

The changing nature of workplace conflict resolution mechanisms can be credited to the series of events including personalisation of human resource management, the growth of multinational companies, growing importance of training and ADR support services, and lastly the change in attitude towards workplace conflicts.