An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

Áras Lansdún, Bóthar Lansdún, Droichead na Dothra,
Baile Átha Cliath 4, Éire.
Lansdowne House, Lansdowne Road, Ballsbridge, Dublin 4, Ireland.

Pre-Adjudication Mediation FAQs

Please note, if parties agree to take part in Mediation, it is expected that they will come to the process with a genuine desire to negotiate and resolve the complaint.

What is Pre-Adjudication Mediation?
When you make a complaint to the Workplace Relations Commission about an employment rights or equality matter, you can choose to participate in talks with the WRC Mediation Service. This is when a Mediator will talk to both the Complainant and Respondent about the complaint. It gives the parties a chance to come to an agreement about the issue without having to go to an Adjudication hearing. We call this "Pre-Adjudication Mediation". Pre-Adjudication Mediation is also available when someone has made a complaint of discrimination in the provision of goods and services, accommodation and education.

To avail of Pre-Adjudication Mediation, you tick the box on the complaint form agreeing to mediation when you are registering a complaint with the WRC. If you have not ticked the box, but later think that mediation might be a good idea, you can email us at mediation.response@workplacerelations.ie and we can contact the employer or respondent to see if they will agree to talks.

If you are an employer or respondent who has been notified by the WRC that someone has made a complaint against you, and you believe that it may be possible to reach an agreement without an Adjudication hearing, you can email us at mediation.response@workplacerelations.ie and we can contact the other side to see if they will agree to mediation.

What are the benefits of Mediation?

- It is free
- It is confidential
- It is quicker than going to an Adjudication hearing
- It is informal and non-legalistic
- It is easier – there's a lot of paperwork and preparation for an Adjudication hearing
- It is voluntary – you or the other party can decide you don't want to participate in talks
- You agree the outcomes – including agreement on issues that an Adjudicator can't award, such as agreeing on providing a statement of employment and other creative and flexible solutions that the parties are happy to agree to
- Agreements are legally binding and if either side does not honour the agreement, it can be brought to a Court for enforcement

How does Telephone Mediation work?
If the Complainant has ticked Yes to Mediation on the Complaint Form, and the WRC is of the view that the issue is suitable for telephone mediation, the Mediator will contact the Respondent to enquire if they would be willing to engage. If the Respondent agrees, the Mediator will consult with the parties separately, either by telephone or email, to try and assist them to reach a resolution. Conversations are confidential and the parties decide what the Mediator can and cannot share with the other side.

What happens at an In-Person Mediation?
Sometimes talks about a complaint are more suited to a face-to-face process. The WRC provides in-person Pre-Adjudication Mediation in these scenarios:

- equality complaints.
- more complex employment rights complaints like Unfair Dismissal; and
- in some circumstances where the parties agree in-person meetings may be more appropriate.

Face to face mediation involves a series of meetings that take place on the same day. The process starts with the Mediator talking separately with each party, explaining the process and inviting each side to tell their story. The separate meetings allow the Mediator to discuss the issues in dispute confidentially with each side and to explore a range of possible solutions without prejudice to anybody's position. This approach creates an informal and non-confrontational atmosphere and puts parties at ease and in the right frame of mind for positive engagement and solution seeking.

The Mediator may later invite the parties to meet together, for a discussion facilitated by the Mediator, if the Mediator believes it will be a positive and useful engagement that will support the resolution of the dispute in hand.

The Mediator treats all information shared in both separate and joint talks as confidential and will not divulge any information shared to any other party unless expressly permitted to do so. There is no note-taking during talks except where the Mediator needs to record information relevant to a possible outcome. All notes are destroyed once mediation is completed.

Face to face mediations take place in every county in Ireland in a neutral venue provided by the WRC.

Do parties have to have Legal Representation at Mediation?

Representatives or advisors are welcome at mediation however, the WRC does not require that parties be represented. Either party can choose to be represented at either mediation and/or an Adjudication hearing. The Mediator will facilitate all the parties involved in reaching agreement and will discuss, at the outset of the mediation, how best third parties can contribute to the mediation process.

Can I send a Representative to negotiate on my behalf?
Complainants and Respondents must attend in person at a face-to-face mediation and cannot send a third party along to negotiate in their absence.

During telephone mediation, representatives can act on behalf of a Complainant or Respondent. This is because the mediation happens over a number of days and multiple engagements and not in "real time" like in-person mediations.

Mediated Agreements are signed by the Complainant and Respondent themselves. This is required under Section 39(4) of the Workplace Relations Act 2015.

Do parties have to confirm who will be attending in advance?
The WRC has no role in requiring parties to provide this information in advance. Parties are free to arrive with representation on the day of the mediation. However, the Mediator meets with both sides separately initially and will inform each party as to who is in attendance.

Will parties have to sit in the same room?
No, the process starts with the Mediator talking with each party in separate rooms to explain the process. The Mediator may later invite the parties to meet together, for a discussion facilitated by the Mediator, if the Mediator believes it will be a positive and useful engagement that will support the resolution of the dispute in hand.

Are parties limited in who can attend?
It is recommended that the parties bring decision-makers to the mediation to facilitate a resolution on the day.

How long does mediation last?
Mediation sessions typically last between 2.5 and 3 hours. In most cases the process is concluded on the same day.

Do parties need to submit any evidence before or during a Mediation?
The mediation process is very informal. Unlike an Adjudication hearing, there is no requirement to present evidence or documentation. Written submissions are only required in advance of an Adjudication hearing if mediation is unsuccessful. The purpose of the mediation is to see if a resolution is possible on a without prejudice basis.

Will statements made during Mediation have any implication for a subsequent Adjudication?
The mediation process is entirely confidential & standalone. The Adjudication Officer will not be aware that mediation took place before an Adjudication hearing. An Adjudicator will not entertain discussion of what occurred at mediation or details of any offers made or rejected.

Can the Mediator, based on their assessment, determine a complaint is not an eligible complaint based on objective evidence?
A Mediator cannot determine whether a complaint is well founded or not, they are there purely in a facilitatory capacity, to assist the parties in reaching a mutually satisfactory agreement. If no such agreement is reached, then the claim will proceed to an Adjudication Hearing.

What happens if you reach an agreement at Mediation?
If you reach agreement, the Mediator will write up the terms of a draft agreement. Once both parties are happy with the draft, a final version will be given to each side to sign. This agreement is legally binding and confidential to the parties. The case will be closed and there will be no Adjudication hearing. Each side will keep a copy of the agreement, and the Mediator will keep a copy.

What happens if you don't reach an agreement?
If you do not reach agreement, the Mediator will write to both sides to let them know that the dispute could not be resolved by mediation and an Adjudication hearing will now take place. If the complaint is under the Equal Status Act, your Mediator will explain some additional steps you will need to take to move the case forward to Adjudication.

If I have a problem with an employer, employee or colleague, can the WRC provide us with mediation to address the issue?
A complaint must be registered with the WRC before Pre-Adjudication Mediation can take place.