

# Mediation Alternative Dispute Resolution Procedure



## 1.0 Introduction

As set out in the Mediation – Alternative Dispute Resolution policy, the University is committed to the promotion of a culture free from conflict and where all the UCD community are treated with respect. The University promotes and encourages the resolution of interpersonal difficulties through informal means in so far as is possible. Mediation is one means of resolving issues in an informal manner and should be considered if other attempts at local level resolution have been unsuccessful. Employees and students should refer to the [UCD Mediation \(Alternative Dispute Resolution\) webpage](#) for further information on local level, informal options for dispute resolution.

The following procedures set out how to request mediation, how the mediation process works, and the benefits of mediation.

## 2.0 Requesting Mediation

Access to mediation is made available through the Dignity and Respect Support Service. Mediation is mainly used to help resolve interpersonal difficulties between two parties but can also be of value in helping to restore the professional relationship following a formal complaints process for example. Mediation is focused on looking at future working relationships and is not a means of seeking retribution for past events. Any individual who is considering mediation can contact the Dignity and Respect Support Service ([respect@ucd.ie](mailto:respect@ucd.ie)) to arrange a briefing if they wish to find out more about the process. The Dignity and Respect Support Service provides information briefings and coordination services in respect of all university mediation requests including those without a dignity and respect aspect (i.e. bullying, harassment or sexual misconduct).

### Employees

If an individual wishes to request mediation with an employee, student or other community member, they must contact their line manager, or next level up if the issue is with their line manager, to discuss mediation as a means of resolving the issues they are experiencing. The line manager must be satisfied that all local level options have been exhausted in the first instance [see [UCD Mediation \(Alternative](#)

[Dispute Resolution\) webpage](#) for further information on local level, informal options for dispute resolution]. If the line manager feels that mediation is an option to be explored, they should advise the employee to contact the Dignity and Respect Support Service for a briefing on mediation to obtain further information about the process. Following the briefing, if the employee wishes to engage in the mediation process, the line manager should contact the other party identified by the individual to ascertain if they are willing to consider engaging in mediation. In the case of the other party being employed in another area, the line manager should contact the other party's line manager so that they can approach the other party about the mediation request and to advise them to contact the Dignity and Respect Support Service for further information on mediation prior to making a decision.

If both parties agree to mediation, the "Request to Enter into Mediation" form must be completed and sent, by the manager, to [respect@ucd.ie](mailto:respect@ucd.ie). The form will require the names of both parties, any local level interventions that have taken place to date, the nature of the issue, confirmation that the person requested to engage in mediation is willing to do so, the signature of the line manager(s) and the signature of the person requesting mediation. The line manager's signature is required to confirm that local level interventions have taken place, that both parties have agreed to participate and that they are agreeing to release the employees for the mediation meetings. Further information on local level interventions will be available at a mediation briefing meeting. On receipt of the completed form the Dignity and Respect Support Service will commence organising mediation with an external mediator. As mediation is voluntary, both parties must agree to engage with the process.

Mediation may alternatively be instigated by the line manager as a means of resolving issues or restoring the professional relationship between two individuals; however, both parties must agree to participate for it to proceed. When mediation is initiated by the manager with the mutual consent of both parties and there is no specific request for mediation from either party, this should be explicitly stated on the 'Request to Enter into Mediation' form. In such cases, the manager's signature alone is satisfactory for inclusion. In the case of a formal Bullying and Harassment or Sexual Misconduct complaint, the Dignity and Respect screening panel may recommend both parties to the complaint consider attending a briefing on the mediation process provided by the Dignity and Respect Support Service. However, the decision remains with the parties as to whether they agree to enter into the process due to its voluntary nature.

## Students

In the case of a student requesting to engage in the mediation process with another student, employee or community member, they should discuss the situation with their Student Adviser or Dignity and Respect Support Adviser in the first instance. If the issue is not of a dignity and respect nature the Student Adviser will advise them of the various options open to them for resolution, including mediation. They will be referred to the Dignity and Respect Support Service for a mediation briefing. If the issue is of a dignity and respect nature the student will be referred by the Student Adviser to a Dignity and Respect Support Adviser where the student will be advised of the various options open to them for resolution, including mediation. They will be offered a mediation briefing.

Where a student wishes to proceed with mediation the Dignity and Respect Support Adviser will highlight the request to the other party. If both parties wish to engage in mediation the Head of School, of the requesting party, will be advised. Where the Head of School (or their nominee) is satisfied that local resolution options have been explored and they agree mediation is a useful next step they will authorise the "Request to Enter into Mediation" form and forward it to [respect@ucd.ie](mailto:respect@ucd.ie). On receipt of the completed form the Dignity and Respect Support Service will arrange for the mediation process to commence, mediation cannot take place unless both parties agree. In the case of a formal Bullying and Harassment or Sexual Misconduct complaint, the Dignity and Respect screening panel may request both parties to the complaint to consider attending a briefing on the mediation process provided by the Dignity and Respect Support Service. In the case of the Conflict Resolution for Supervisor(s) and Graduate Research Students policy the Head of School may advise parties to consider mediation. However, the decision remains with the parties as to whether they agree to enter into the process due to its voluntary nature.

### **3.0 Mediation Process**

The first stage in the process involves separate meetings between the mediator and the individuals involved. These meetings are designed to ensure that the parties:

- Understand and have confidence in the mediation process and mediator.
- Discuss the issues from their perspective.
- Ask any questions about the process.
- Think about key issues discussed with the mediator at the initial meeting so that they are better prepared for the joint meeting.

After the initial meetings the parties will be invited to a joint face-to-face meeting where, with the support and guidance of the mediator, they will work towards reaching a mutually satisfactory outcome.

At the end of the discussion, the mediator will assist the parties in drawing 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 mediator will notify the University as to whether an agreement has been reached through the Dignity and Respect Support Service which, in the case of a formal complaint will notify the EDI Unit. In cases outside the formal complaints process, the manager/Head of School or nominee who authorised the 'Request to Enter into Mediation' form will be informed when the mediation process is concluded and if agreement has been reached.

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 process will be terminated and the EDI Manager will be informed.
- The mediator is impartial and does not take sides.
- It is solution focused – the object of the exercise is to reach a workable and mutually agreeable solution to the conflict or issue of difference.
- It is future focused – past issues may be reviewed only for the purposes of agreeing how to work together better in the future.
- All parties have the right to withdraw from the process at any time.
- There may be circumstances where mediation will not be recommended, for example where disciplinary action has been instigated.
- Mediation is voluntary and is not normally legally binding.

#### **4.0 Mediation where a Formal Complaint has been made**

In the case of a formal Bullying and Harassment or Sexual Misconduct complaint, both parties to the complaint may be asked to consider attending a briefing on mediation. If both parties agree to enter into mediation, then the formal complaints process will be on hold until the outcome of mediation is known.

The EDI Manager will be informed of the outcome of mediation by the Dignity and Respect Support Service. If an agreement is reached at mediation, the EDI Unit will write to the complainant to confirm an agreement has been reached and to ascertain if it is their preference that the formal complaint be withdrawn. Where that is their preference the EDI Unit will then write to the respondent to confirm that the formal complaint is withdrawn. This mediation agreement does not prevent any employee or student from making a formal complaint in the future.

If agreement is not reached at mediation, the EDI unit will be informed of this so that the formal complaints process can resume.

## **5.0 Benefits of Mediation**

The benefits of mediation include:

- It is an opportunity to resolve a problem in an informal non-adversarial way.
- The resolution of the issue remains in the control of the individuals directly concerned. They will be involved in the development of the solution and as a result, the outcome is likely to be better and longer lasting.
- It has the potential for a high success rate and positive outcomes where the parties are genuinely committed to a resolution.
- Mediation focuses on the future working relationships of those involved.
- It is flexible to the needs of the parties and much faster than more formal processes.
- Mediation is a confidential process. The mediator agrees with the parties that they will not disclose any information arising in the mediation process. The parties themselves must maintain confidentiality as to what happens at mediation except where they agree otherwise.
- The purpose of mediation is to provide a safe space where people can be open and honest, therefore it is not appropriate for any information learned through the mediation process to be used in a formal complaints process. This does not include information that parties were aware of prior to mediation.
- The settlement terms remain confidential to the parties and to the mediator except if the parties otherwise agree.

# Appendix 1

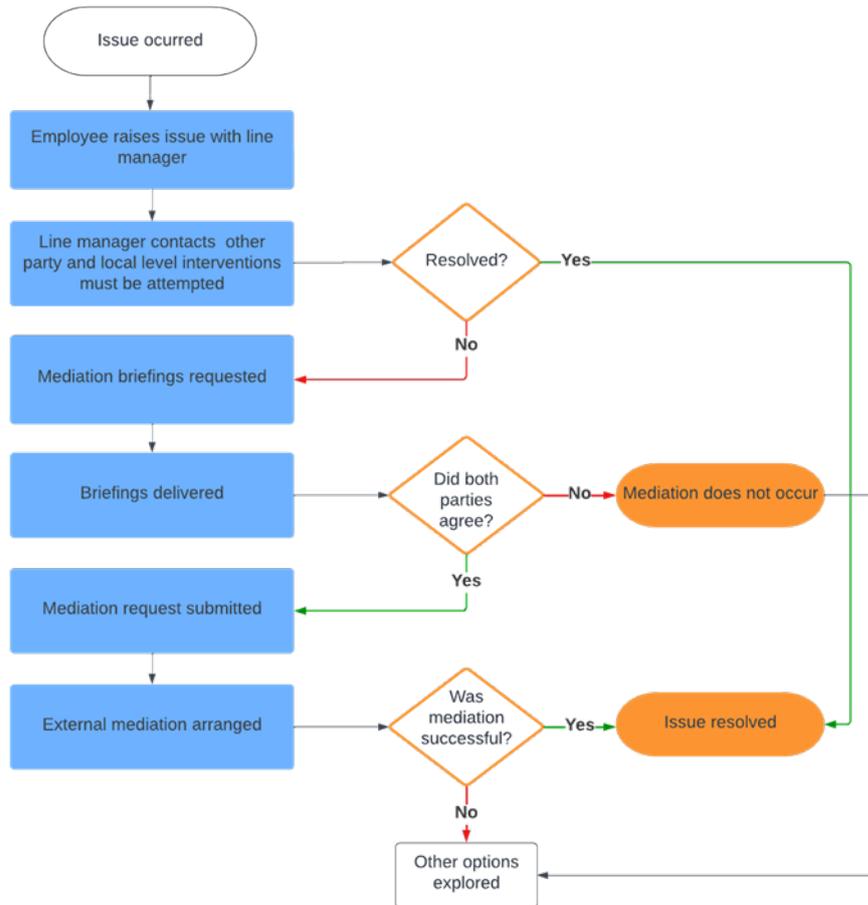
## Mediation Process - Employees



UCD Dignity & Respect Support Service

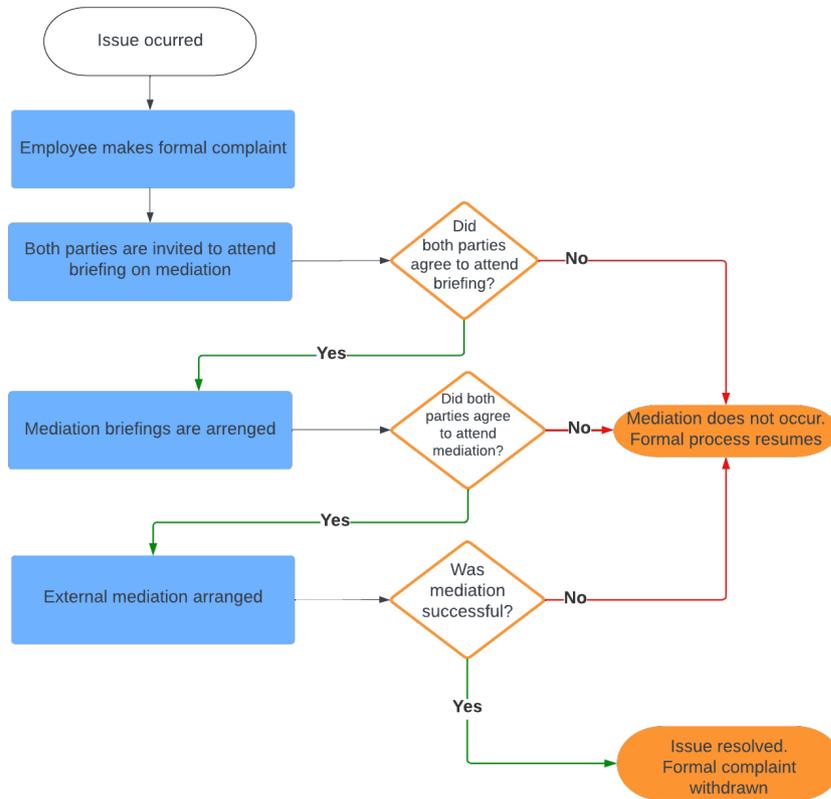


Mediation Process for Employees (as part of informal process)





Mediation (as part of formal process)



**Note: The Dignity and Respect Screening Panel may request parties to a formal complaint consider attending a mediation briefing. This is not always the case.**

## Appendix 2

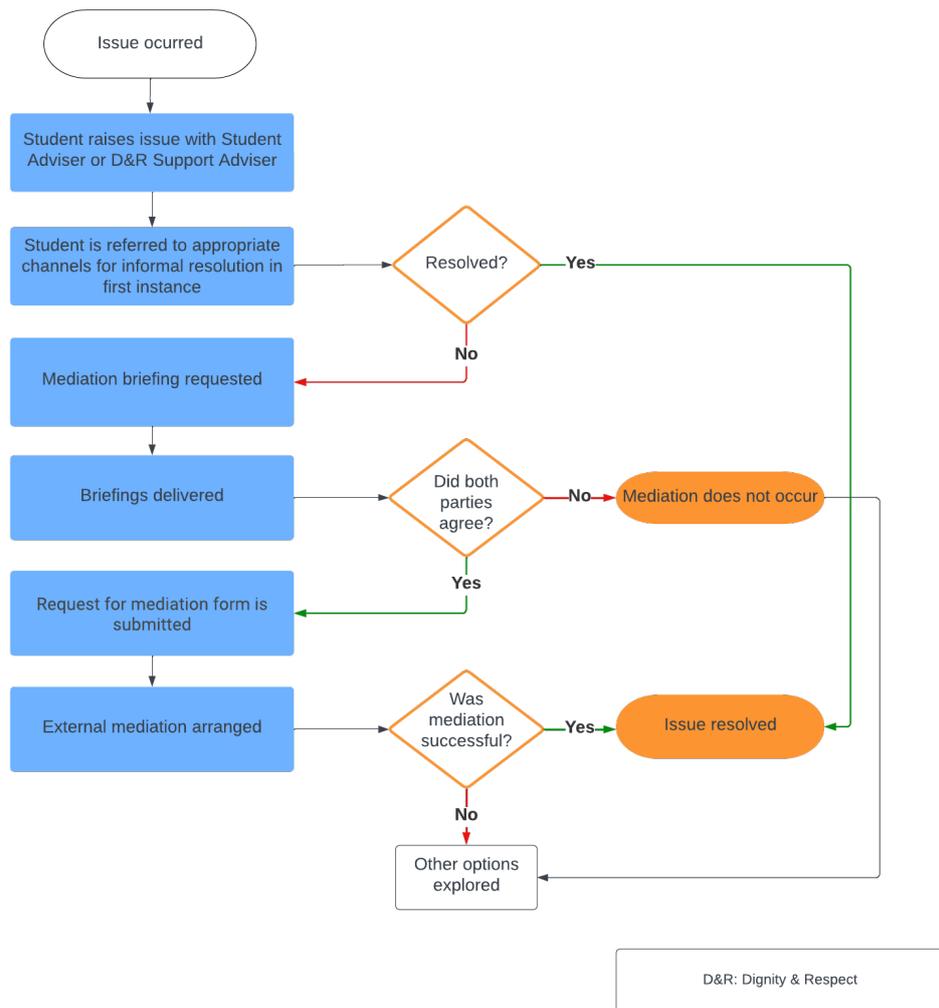
### Mediation Process – Students



UCD Dignity & Respect Support Service

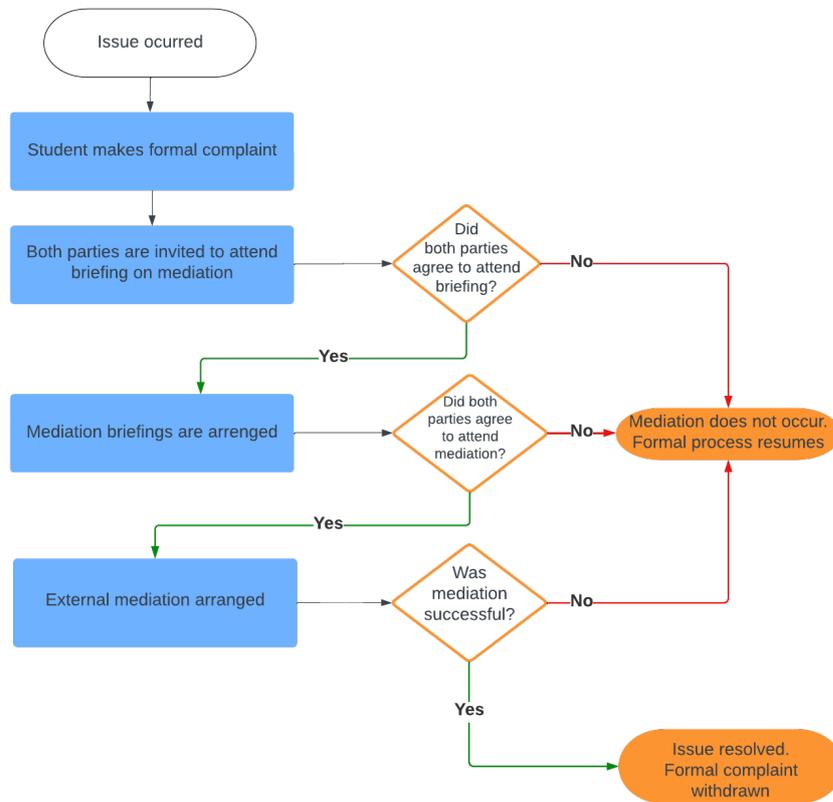


Mediation (informal resolution)





Mediation (as part of formal process)



**Note: The Dignity and Respect Screening Panel may request parties to a formal complaint consider attending a mediation briefing. This is not always the case.**