

From Argument to Engagement - The Power of Mediation

An examination of mediation and its role in building an engaged workforce.



Includes evidence, tools and tips to help HR, managers and business leaders use mediation to develop a more engaged workforce.

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About the author

David Liddle is the founder and CEO of The TCM Group, one of the largest and most well established mediation companies in the UK.

For the past 20 years David has been successfully promoting the principles and practices of mediation and non-violence across numerous walks of life including neighbourhoods, schools, prisons, workplaces and boardrooms.

David has been instrumental in transforming attitudes to conflict management within UK business and he has played a major role in cementing mediation as a credible and mainstream activity for some of the most well-known and valued brands.

David is an engagement expert with the Engage for Success movement. He has developed training and consultancy programmes to help organisations develop and embed employee engagement programmes, with mediation at their heart.

David is also President of the Professional Mediators' Association – the independent trade body for mediators in the UK.

Useful links

- Companies who are interested in finding out more about mediation should contact david.liddle@thetcmgroup.com or visit his website www.thetcmgroup.com
- David is also active on LinkedIn. You can view his profile and connect with him at www.linkedin.com/in/liddledavid
- The Professional Mediators' Association website can be found at www.professionalmediator.org.
- The Engage for Success website can be located at www.engageforsuccess.org

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Unresolved conflict is a barrier to employee engagement

Unresolved workplace conflicts are one of the most significant barriers to employee engagement. Conflict creates uncertainty. It generates fear and it creates stress. Unresolved conflicts at work can drain resources and act as a major block at times of change or transformation. In some cases, the reaction to conflict can be so extreme that it undermines team working and hinders innovation and creativity. The costs of conflict run to an estimated annual £33 billion to UK business according to the Confederation of British Industry, taking up 20 per cent of leadership-time and resulting in 370 million days lost.

However, psychologists including Dr Bruce Tuckman, argue that conflict (storming) is a normal stage in team development¹. As a mediator, my experience leads me to conclude that it is not conflict that is the problem; it is the way that we handle it that defines whether it is going to be a constructive or a destructive force.

In fact, Swiss psychologist Carl Jung described conflict as being necessary for constructive change and the development of stronger relationships:

“The most intense conflicts, if overcome, leave behind a sense of security and calm that is not easily disturbed. It is just these intense conflicts and their conflagration which are needed to produce valuable and lasting results.”

Change, competition and complexity drive conflicts

It is relatively easy to engage employees when the tills are ringing. However, during these tough times, driven by austerity and low economic growth, the potential for conflict is substantially increased. Competition for scarcer resources places greater and greater stress on relationships. This is exacerbated by rapid change within organisations, increasing complexity in management structures, the challenges of globalisation along with a steady devolution of HR functions to a management level which often lack core emotional intelligence competencies. In addition to the above challenges, our traditional dispute resolution systems are failing. The very procedures which are designed to resolve disputes are in fact perpetuating them.

For those organisations that are serious about employee engagement, there is an urgent need for a radical review of how they handle disputes and conflicts.

¹ Dr Bruce Tuckmans 4 stages of team development. Forming, storming, norming and performing (1965)

The existing dispute resolution processes worsen and perpetuate conflict

Traditional grievance or bullying and harassment procedures do little to resolve disputes. Drawing on a quasi-legal structure they are inherently formal and profoundly adversarial. When I speak with employees, managers and HR professionals, they tell me that they do everything that they can to avoid going into a grievance procedure. When they do however encounter the grievance process, the experience has been described to me as harrowing; upsetting; destructive; stressful; frightening; and ultimately counterproductive. Let's not forget that this is the procedure of choice for resolving disputes in the majority of UK organisations.

The HR Paradox

The dichotomy is plain to see. I call it 'The HR Paradox'. HR professionals, on the one hand, are a key proponent and enabler of employee engagement. Yet on the other hand, HR are the custodians of a dispute resolution system which tears workplace relationships asunder. The HR Paradox has the potential to undermine the legitimacy of HR and in doing so, it creates the potential for cynicism and distrust of employee engagement initiatives. Nevertheless, employee engagement, according to the Chartered Institute of Personnel and Development (CIPD), is a core function of the HR profession.

"The HR professional ensures that in all aspects of the employment experience – the emotional connection that all employees have with their work, colleagues and to their organisation (in particular line manager relationship) is positive and understood, and that it delivers greater discretionary effort in their work and the way they relate to their organisation." CIPD 2012.

[\(www.cipd.co.uk/cipd-hr-profession/hr-profession-map/\)](http://www.cipd.co.uk/cipd-hr-profession/hr-profession-map/)

Many organisations are rejecting traditional thinking about dispute resolution

Marks and Spencer, Lloyds Banking Group, EDF Energy, London Underground, BT and Topshop are just some of the organisations who have decided that enough is enough. These household names, alongside many more, are turning to a new and highly effective remedy at times of conflict, change and crisis – mediation.

The shift from formal to collaborative dispute resolution processes is a major driver for these organisations. Each organisation is experiencing a significant transformation as they develop the systems, the processes, the culture and the mind-set which embrace mediation, and reject adversarial dispute resolution.

Table: The problem with the existing dispute resolution procedures:

- *They are inherently adversarial.*
- *They polarise the parties.*
- *They rarely identify the root cause of a conflict.*
- *Employee and business needs are ignored.*
- *Opportunities for learning are lost.*
- *They impede creativity.*
- *They undermine employee engagement.*
- *They create a dysfunctional 'grievance culture'.*

Mediation works

Mediation is a non-adversarial system for resolving conflicts and disputes. It is used as an alternative to formal or legal processes.

Mediation can be defined as a:

- **Framework** – a process whereby a neutral third party intervenes in a dispute to help the parties to secure a satisfactory and constructive resolution.
- **Competence** – a set of skills that HR, managers and business leaders use to secure constructive outcomes at times of conflict, change and crisis.
- **Mind-set** – a way of thinking and an organisational culture which embraces dialogue and collaboration rather than blame and retribution.

As a process, the mediator is an impartial third party. They help the disputing parties to have an open and honest dialogue so that they can identify and secure a mutually acceptable outcome. A win/win outcome. Mediation is different because it is about collaborating rather than blaming.

Underpinned by best practice in positive psychology, the aim of mediation is to help the parties to identify and secure an outcome which is mutually acceptable. The mediator doesn't propose solutions; they don't make judgments about who is right or wrong and they don't assess culpability or blame. Mediators may be trained managers, accredited internal mediators or external, professional mediators.

Mediation is particularly effective when delivered by managers and leaders at the source of a conflict. Within organisations like Topshop, Marks and Spencer and BT, mediation is increasingly

being seen as a core leadership function. Most practising mediators in the UK are members of the Professional Mediators' Association and subscribe to the PMA's code of conduct and professional standards

Mediation underpins employee engagement

By bringing people together to have open and honest conversations, not only does mediation help to resolve the root cause of the conflict, it also helps to build a level of engagement in the resolution process between the parties. Drawing on best practice from the fields of Positive Psychology, Principled Negotiation and Non-Violent Communication, mediation encourages innovation and creativity and reduces the barriers to employee engagement.

When conflicts are resolved constructively, employees feel happier and stronger. They are more resilient as a result of the mediation process and they become more effective and engaged in the workplace. It's simple – it's called talking to each other.

The benefits of using mediation to build an engaged workforce:

- It gives parties in a dispute a voice and a chance to be heard.
- It encourages openness and honesty.
- It generates empathetic, adult to adult connections.
- Parties focus on their interests and needs rather than the strength of their relative positions.
- The parties craft their own solutions - avoiding the need for solutions to be imposed.
- It encourages creative and innovative thinking.
- Issues are resolved to the mutual satisfaction of the parties.
- It develops resilience - for individuals and for teams.
- It underpins economic growth and drives competitive advantage.

Mediation as a core element of employee engagement

Employee engagement has significant benefits for all the people involved. I am fortunate enough to be an Engagement Guru as part of the Engage for Success programme. I am also working at a senior level with an increasing number of businesses to integrate mediation schemes. As a result, I am seeing first hand that engaged employees feel more positive about their organisation; about themselves; about each other; about their leaders and about the HR function within their organisation.

According to the ground breaking engagement report by David MacLeod and Nita Clarke 'Engaging for Success', engaged employees deliver better customer service, they are happier and they are more innovative and creative.

"Engaged employees have a sense of personal attachment to their work and organisation; they are motivated and able to give of their best to help it succeed – and from that comes a series of tangible benefits for organisation and individual alike."

<http://www.bis.gov.uk/files/file52215.pdf>

During a recent interview, David MacLeod, head of Engage for Success argued that mediation is central to employee engagement. *"Mediation has a critical role in employee engagement allowing companies to address fundamental issues in the workplace."*

The four enablers of employee engagement

There are, according to engage for success, four powerful enablers of employee engagement. These four enablers of engagement have proved to be useful lenses which can help organisations assess the effectiveness of their approaches:

1. Visible, empowering leadership providing a **strong strategic narrative** about the organisation, where it's come from and where it's going.
2. **Engaging managers** who focus their people and give them scope, treat their people as individuals and coach and stretch their people.
3. There is **employee voice** throughout the organisations, for reinforcing and challenging views, between functions and externally - employees are seen as central to the solution.
4. There is organisational **integrity** – the values on the wall are reflected in day to day behaviours. There is no 'say – do' gap.

The power of mediation and employee engagement

Mediation plays a key role in helping organisations to implement all four of the enablers of engagement. Training managers and leaders to have difficult, mediated conversations helps to nip issues in the bud and resolve difficult situations at source. Giving employees a voice at times of

conflict and change ensures that difficult issues can be raised and aired in a constructive and meaningful manner.

Mediation places resolution directly with employees, it is about taking responsibility and reaching consensus. By developing a mediation programme, organisations are able to demonstrate their commitment to the values of respect, dignity and co-operation.

The evidence that employee engagement works

A report setting out evidence of the benefits of employee engagement was published by Engage for Success in November 2012. The report showed that:

- In a Gallup survey carried out in 2007, 59% of the more engaged employees say that work brings out their most creative ideas, against 3% of the less engaged.
- The Confederation of British Industry (CBI) suggest that engaged employees take an average of 2.69 days sick a year; the disengaged take 6.19 sick days.
- Companies with highly engaged staff report employees taking an average of 7 absence days per year, approximately half the 14 days per year reported in low engagement companies (bottom 25%). According to Aon Hewitt 2012.
- According to the Corporate Leadership Council (CLC), organisations are likely to increase engagement levels and workforce commitment when they actively encourage employees to innovate, improve methods, research solutions, and participate in the decision making process.

The business case for using mediation to secure employee engagement

The Chartered Institute for Personnel and Development (CIPD) finds that almost 60% of companies using mediation see a significant reduction in formal grievances and a reduction of employment tribunal claims by almost 50 per cent. A typical mediation lasts one day with over 90% of cases achieving a successful outcome.

“Mediation works and everyone wins”, says Caroline Waters, Head of People and Policy at BT. “The power of mediation”, argues Caroline, “is in offering people real choices at times of conflict or change. The mediation programme at BT has really worked. It offers our business significant benefits in terms of financial benefits and reducing the costs of conflict. However, it isn't just about the

financial benefits; it is also about building strong relationships and developing engaged and productive employees and teams. Mediation really delivers."

The BT experience is compelling and the message is spreading. At Marks and Spencer, Philip Edwards, Head of Employee Relations is 100% behind this new approach. "We try and use mediation as an early, informal resolution to issues across the whole business of 75,000 employees" he says.

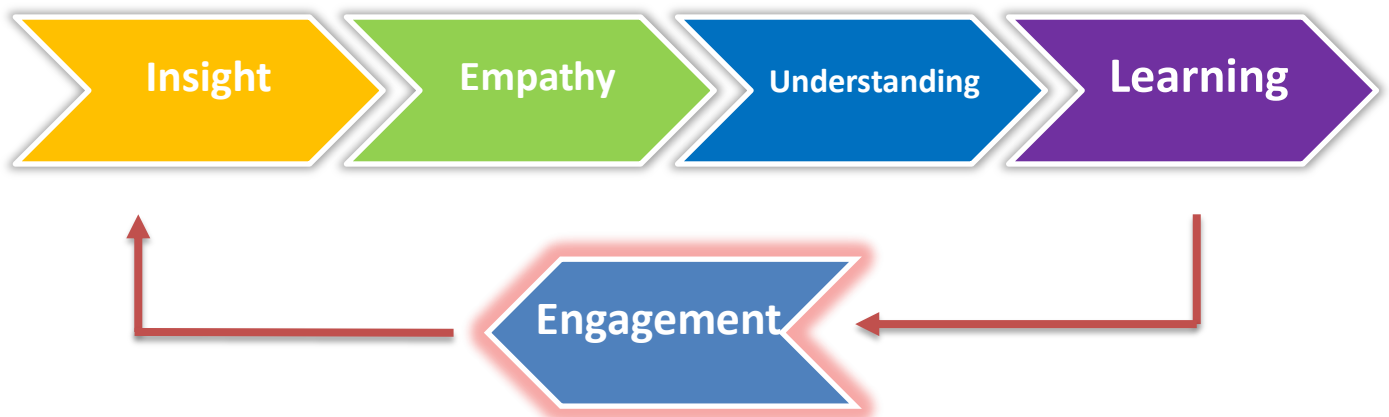
The Insight – Engage Model™

Mediation is a powerful tool for creating safe and compassionate dialogue. In doing so, mediation enables the parties to develop **insights** into their own and others attitudes and behaviours.

These insights are the building blocks to a more emotionally intelligent conversation which is based, not on blame or retribution, but on **empathy**, positive regard and appreciation. Connecting at an empathetic level opens up our minds to **understand** one another more fully. Understanding is key to learning. During mediation, parties are able to see the other person's point of view – it's not easy but we start to view each other as humans, with the same difficulties, challenges and emotions that we have.

With increasing confidence and reassurance, borne out of the connections being formed, the parties begin to recognise the impact of their actions, their reactions and their interactions. From this understanding comes a powerful form of **learning**. It is experiential and it is felt. The learning that we see during mediation can range from learning how to communicate with each other again through to learning how to give and receive feedback without becoming defensive.

Finally, in mediation we see the parties **engagement** enhanced which in turns creates fosters opportunities for insights and continued connectedness, understanding and learning.



The Insight – Engage Model: Liddle, David (2013)

Integrated mediation schemes deliver the greatest benefits

Setting up a mediation scheme integrates the benefits of mediation into the heart of the business. In a recent report produced by the Chartered Institute of Personnel and Development (CIPD), the Topshop experience is cited as a national benchmark. Paul Forrest, head of employee relations for Arcadia Group (the company who own Topshop and Topman) is a TCM accredited mediator and a passionate advocate of this new approach.

In addition, Topshop recently won the Personnel Today award for Innovation in Dispute Resolution. Topshop were praised by the judges for the innovative way that they have used mediation to underpin their employee engagement and employee wellbeing initiatives. Paul Forrest explains:

“For us,” he says, “mediation has had the benefit of underpinning our commitments to employee engagement and wellbeing. Mediation reinforces our belief that problems can be resolved by talking about them. This is a major shift from the belief that, if an employee had a problem, ‘someone else’ would be there to sort it out for them.”

The TCM Integrated Mediation Scheme framework



Who mediates?

Integrated mediation schemes are self-sufficient mediation programmes whereby the majority of mediations are carried out by internal mediators.

The mediator may be a manager, an HR professional or an accredited internal mediator. All mediators are trained to act neutrally and impartially. For most integrated mediation schemes, mediation competencies are an integral element of management and leadership.

Mediation competencies augment the other roles managers' play where they are required to act with integrity. These include: recruitment processes, appraisals, supervision, dismissals, redundancies etc. Mediation becomes a key part of modern management and leadership within an integrated mediation scheme.

The adversarial culture that grips many organisations undermines managers and leaders attempts to diffuse and resolve disputes. Managers and leaders are left with little choice but to avoid dealing with conflict or to escalate it to HR or lawyers. By placing mediation at the heart of modern management, it supports a key function of the manager and reduces the burden on HR. By developing an integrated mediation scheme, HR professionals can work with managers to coach and mentor them to secure constructive outcomes at a local level.

Internal mediators are drawn from the across the organisation and are independent of the division or the department in which the dispute occurs. External mediators are professional mediators and bring a high level of independence and expertise, which of course, comes with a price tag. External mediators tend to mediate in more complex cases involving multiple issues or multiple parties.

Toolkit: How to integrate mediation into your organisation

HR professionals and business leaders, who are developing employee engagement programmes in their organisations, should also consider the role for mediation. Consider how you will engage employees during times of conflict and during periods of change and crisis. Mediation is more than dispute resolution. It's a mind-set. It's about talking and listening. It's about giving and having a voice. It's an opportunity to challenge and be challenged - with respect.

10 simple steps for integrating a mediation scheme:

1. Choose a mediation partner who can work with you to embed mediation into your organisation. It is not an activity that can be taken lightly and having an expert partner, such as TCM, working with you will help you to avoid many of the common pitfalls.
2. Promote mediation in your values statement and refer to it in your recruitment and induction documents. Mediation can assist you to become an employer of choice and it supports employee engagement and well-being activities. It helps to close the say – do gap.
3. Recruit, select and train a team of internal mediators to an accredited standard such as the OCN accredited National Certificate in Workplace Mediation.
4. Train your Human Resources and Employee Relations teams to be peacemakers in your organisation. To be advocates of mediation and to coach managers at times of conflict, change or crisis.
5. Develop a Resolution Policy and Resolution Toolkits to replace your existing grievance procedure. Please contact me for more details.
6. Engage fully with your employees and their representatives to ensure that they support mediation and have ownership and engagement in this new approach.
7. Train and coach your managers to be mediators and peacemakers in their teams. Managers and leaders are the best mediators you have and they are often at the front line of conflict.
8. Secure senior management buy-in to mediation. A signature and foreword in your resolution policy and mediation documents from your chief executive and chair can add real credibility to your approach.

9. Ensure that internal investigators, disciplinary panels and appeals panels are aware of mediation and are authorised to refer cases to mediation.
10. Celebrate your new integrated mediation scheme and let everyone know that this is the direction that your business is travelling in. The more people who share your vision and come on board, the more sustainable and credible your new approach will be.

Conclusion

With such a detrimental impact on the modern business, conflict management can't be left to chance, or worse, left to woefully inadequate grievance or bullying and harassment procedures.

The age of the traditional grievance culture is coming to an end. As an alternative, I propose that organisations replace their grievance, bullying and harassment procedures with a single 'Resolution Procedure'. A Resolution Procedure should have mediation at its heart and it should embrace best practice in consensus building, collaboration and positive psychology. By placing greater emphasis on resolution, organisations will enjoy significant benefits as listed in this paper - none more so than the effective engagement of employees at times of conflict change or crisis.

Over 90% of disputes can be resolved through mediation, whether delivered by an internal or an external mediator. For organisations who have invested in developing an integrated mediation scheme, the impact is evident on both the bottom line and in terms of human relationships and wellbeing.

By engaging in mediation, issues that would typically take weeks or months to deal with are resolved in just one day. There is no need for legal advice, there are no investigations to set up and critically, the parties can get back to work immediately. The parties are given a voice and are able to listen to each other without the same levels of animosity or defensiveness that we see elsewhere. "They feel valued and heard", says Caroline Waters from BT. "As a result they are able to remain calmer and to become more empathetic."

And empathy is what mediation is all about. There appears to be an empathy deficit in many of our organisations and this is a major barrier to employee engagement and to economic growth. Talking, listening and finding a shared solution to our shared problems is a cornerstone of effective employee engagement. And it works – Mediation Works!

The insights from Martin Luther King, Jr 60 years ago are as relevant today as they were then. They can easily be applied to employee engagement programmes. From the perspective of employee engagement, perhaps his famous quote should be adjusted to read:

"The ultimate measure of an engaged employee is not where he or she stands in moments of comfort and convenience, but where he or she stands at times of challenge and controversy."