

# WORKPLACE STRATEGIES

People.Management

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## Conflict Resolution

Paul Cooley, the founder of Workplace Strategies, is one of those rare lawyers who have come to view litigation as invariably destructive and routinely unrewarding for clients. Few parties to a litigious claim walk away satisfied and those that do often fail to factor in the extensive time, resources and legal fees that are scarified for a court or tribunal victory.

In response to a need to avoid litigation and disputes in industrial tribunals, Workplace Strategies offers a private dispute resolution service that seeks to find ways of resolving a dispute through mutual agreement or when not possible, through the binding decision of an independent arbitrator.

The majority of issues referred to Workplace Strategies for dispute resolution revolve around the employment relationship (including employee performance and disciplinary matters, employee grievances, personality conflicts and issues arising post-dismissal), though we also have expertise in disputes between boards of directors, partnerships and client/customer complaints.

### What's mediation?

In a mediation, Paul is appointed as the mediator with the objective of assisting the parties to the dispute to reach an outcome (that they can live with). The parties in the mediation can be assisted along the resolution path, but ultimately they must agree on the solutions or settlement proposed. No resolution or binding order can be forced upon any party by a mediator.

Unless the dispute is particularly complex or the parties are particularly acrimonious, a mediation can usually be concluded within a day. If the parties agree to a settlement, both parties are asked to sign a Settlement Agreement that places lawful obligations on them to carry out the solutions agreed at the mediation.

Settlement in a mediation can never be guaranteed, but the process of allowing disputing sides to put their version of the dispute, in a controlled environment, means a successful resolution is reached more often than not.

### What's arbitration?

Arbitration is a more formal process whereby the parties are asked to present evidence pertaining to the dispute (either orally or by written statements) and are given the opportunity to cross-examine the opposing party's witnesses. Rather than seeking to find an agreed solution, which is the nature of a mediation, the arbitrator hands down a decision or order that the parties must abide by and which is enforceable in the Courts.

## **Who pays?**

If a mediation relates to an employment dispute, the employer most often (but not necessarily) incurs the costs of the mediation. In other mediations the parties frequently agree to contribute equally to the costs. The costs emitting from an arbitration can also be shared equally or alternatively, the parties may agree that whichever side has the order made against them will be liable for the costs of the other party.

If you have a dispute with an employee, client or supplier – whether it be employment related or a commercial dispute – speak to Workplace Strategies about its private dispute resolution services.