

# Conflict Resolution and Mediation: An essential tool

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In the context of conflict resolution, mediation is but one of the tools that an organization can use in resolving disputes. Mediation involves a neutral third party who can assist parties in resolving the dispute. The fundamental concepts associated with mediation ensure that the conflict can be resolved at any sphere within the organization.

There are several principles, which are foundational to the mediation process such as the neutrality of the mediator, confidentiality of the process, and self-determination of the parties, which ensure the process is inherently effective. In addition, the process establishes a framework in which there is fairness and difficulties that often manifested in conflict such as power imbalances to be addressed.

The concept of neutrality is enshrined in the mediation process. The mediator as an impartial person neither has a stake in the dispute or its outcome, nor any inappropriate link to either of the parties to the dispute. Furthermore mediators are often guided in codes of conduct by the principle that there must be no conflict of interest. Some codes of conduct even consider any interest to be an absolute bar to mediating a dispute.

Mediation is a confidential process and confidentiality in the process is maintained on two levels. The first is that the entire process is confidential. It is protected by legislation in some Caribbean countries such as Jamaica and Trinidad who have implemented statutes and regulations in relation to mediation. The Mediation Act of Trinidad and Tobago for example Section 12 (1) gives a certified mediator who has been involved in the mediation process immunity from suit in relation to an act done or omitted to be done in the mediation process. This is important for parties as there is a need for them to know that the process itself is protected and the mediator can be trusted.

Moreover, another aspect of confidentiality is that the mediator often ensures that there is an understanding of how information disclosed in a private meeting of a party is to be treated. In this regard once both parties have agreed that all information in a private meeting is to be kept confidential, and the mediator will only disclose information that is agreed by the party.

Another foundational principle that guides mediation is the concept of self-determination. The mediator is guiding the process or assisting the parties at reaching their own settlement, any agreement reached by the parties is therefore one that is unique to their situation. The mediator only assists the parties in determining the essential terms of the agreement. The skilled mediator can therefore assist the parties in reaching a settlement that is acceptable on their own terms, however the parties are ultimately the decision makers.

In any conflict, the causes of the conflict can be obscure beneath the emotion, perceptions, and arguments, agenda etc. of the parties. The mediator must dissect the issues and make them plain to the parties and engage them through their agreement on the way forward. This differentiates mediation from other processes such as negotiation where parties are more involved in the process and the negotiator who may be facilitating the process has to work to ensure parties are more focused on the issues, and their underlying needs and concerns. Moreover, negotiations often fail due to positional bargaining of parties, which may produce an impasse.

Power Imbalances can manifest themselves in any conflict where one party has greater control, or resources or may dominate the process, resulting in a situation where another party is in a weaker situation. The skilled mediator ensures that the process is not compromised, and that these power imbalances are addressed in order that the parties can reach a fair and just settlement.

Moreover, while settlement may be one of the goals in mediation, one of the advantages of the mediation process is that it presents an opportunity for relationships to be rebuilt and restored in the organization. The skilled mediator, not only educates on each party's needs and concerns, but assists in effective communication.

Levels of conflict within the organization are varied. These include for example, employee-to-employee, employee to management or employee to customer. Mediation can be employed in relation to industrial relations disputes or in the context of the grievance procedures within the organization. Companies can therefore be strategic in how this process is incorporated to enhance and strengthen internal dispute resolution structures. Training key personnel in mediation skills must therefore be viewed as a priority. While conflict in any sphere is inevitable, mediation presents a tool, once implemented effectively will result, in conflict being effectively managed.