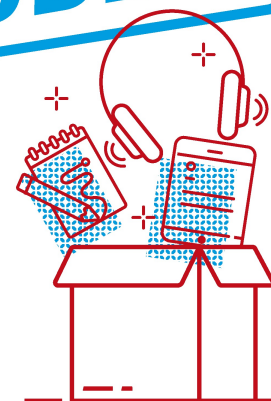
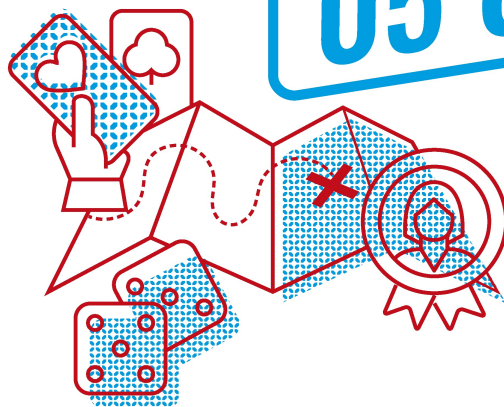


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# Mediation a first step to resolve a conflict



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## Conflict mediation

**Mediation: A First Step to  
Resolve a Conflict**

# What is mediation ?



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## Definition

Mediation is an **amicable** dispute resolution process, with a pacifist approach, as opposed to power struggles and litigation.

It is an informal yet a structured process.

It is usually most appropriate when, for a number of reasons, people are **unable to communicate effectively** or have reached some sort of impasse or deadlock.

It can also be effective **to prevent** awkward situations escalating.

Discussions in mediation are always to be respectful and dignified. However, they often are rigorous and challenging, as difficult issues are faced up.



# What is mediation ?



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## Goals

- **Accompany** groups or individuals facing conflicts with the aim to reach agreement developed in a collaborative, consensual and informed manner
- **Restore** and **facilitate communication** between the parties until they reach *by themselves* their most constructive and fairest sustainable agreement
- Promote better **quality** relationships and a **culture of learning**.



# Characteristics of the mediation process

- **A voluntary process, non authoritarian:** Any party may withdraw from or suspend the mediation at any time, for any reason
- **Informal:** Mediation may be held at any venue and location so long as it is acceptable to the parties, comfortable enough and has all the facilities needed for effective conferencing. The calendar of the meetings is arranged together with the parties
- **Self-determining:** The parties in mediation are expected to own the process. They explore various alternatives together for solution and determine what is best for them, taking into account their needs and expectations, in a collaborative approach.

They only depend on the mediator for facilitation of the process and clarification of issues for informed decision-making and settlement. The process leads to the **empowerment** of the participants and their autonomy in decision making



# Characteristics of the mediation process

## ➤ Future oriented:

1/ Mediation places extremely high premium on an enhanced interdependent relationship between parties

2/ Mediation promotes a culture of learning: It provides the means to consider the conflict as an opportunity to learn and grow.

This can benefit personal as well as career development.



# The mediator's role

## Standard of conduct and duties

The mediator **accompany** the participants and is a communication **facilitator**, acting as an **unbiased** and **impartial** third party, helping the parties to reach a mutually beneficial outcome

The mediator has the responsibility to preserve the quality of the process. He/she conducts mediation in a manner that promotes procedural fairness, presence and safety of the appropriate parties, mutual respect amongst them.

The mediator can in no way make guarantees regarding outcomes.



# The mediator's role

## 3 principles & 1 rule

- **Impartiality:** The mediator does not take side and is prohibited from showing favoritism, bias or prejudice at any point during the process
- **Neutrality:** Although involved in the process of facilitating and guiding dispute resolution, the mediator **does not influence the outcome:** the standard of self determination requires the mediator to allow both parties to make their own choices in terms of outcomes and agreements without coercion





# The mediator's role

## 3 principles & 1 rule

- **Independance:** The mediator may be appointed by the court or selected by the parties. However, he / she is not bound by any kind of relationship with those who appoint him / her and ensures that there are no conflicts of interest involved
- **Confidentiality:** The mediator is prohibited from disclosing any information shared during the mediation process. He/she must ensure that all involved parties understand and agree to keep confidentiality.



# What does the mediation process look like?

## 2 separate phases

1. Individual meeting (s)
2. Common meeting (s) involving all parties, with when necessary, a 'caucus' with each party



# What does the mediation process look like?

## 1. Individual meeting (s): why?

- Allow each side to present their perspective on the facts, frame the issues in their own mind, get things off their chest, give the mediator more information on the emotional state.
- The mediator, through open-ended questions, will dig deeper to help identify and express openly the underlined issues and the emotional undercurrents
- The mediator will find out what the motivations are, what they want to achieve
- The mediator will then present a set of rules for a respectful and safe communication between the parties for the mediation meeting to be successful



# What does the mediation process look like?

## 2. Common meeting (s): what purpose?

- Each side is given the opportunity to tell their story uninterrupted
- Expression and mutual understanding of each other's needs
- Exploration of common goals between the parties
- Prioritisation of the issues and breaking of the deadlocks
- Brainstorming for options of settlement
- Establishment of the formal settlement that serves the needs and priorities of each party.



**Thank you!**

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# Mediators and Ombudsperson



## ➤ Luxembourg Institute of Health

- Mediators: Jonathan Turner, Manon Gantenbein and Sabrina Fritah ([PhDmediation@lih.lu](mailto:PhDmediation@lih.lu))

## ➤ Luxembourg Institute of Science and Technology

- HR Business partner, Department “Informatics & Materials”: Hélène Arago ([helene.arago@list.lu](mailto:helene.arago@list.lu))
- HR Business partner, Department “Environment & Space”: Carmine Aliberti ([carmine.aliberti@list.lu](mailto:carmine.aliberti@list.lu))

## ➤ Max Planck Institute Luxembourg for Procedural Law

- Ombudsperson: Prof. Enrique Vallines García (26 94 88, [enrique.vallines@mpi.lu](mailto:enrique.vallines@mpi.lu))

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