



Mediation in the NHS

*A report from a survey undertaken by
The TCM Group and NHS Employers
August 2012.*

Introduction

Disputes within the NHS, like so many other sectors, are damaging, destructive and a significant distraction at times of major change and transformation. With such a negative impact, it comes as no surprise that NHS leaders are seeking alternatives to traditional grievance processes which, according to many health professionals, are inherently adversarial and fail to bring disputes to a satisfactory resolution in the majority of cases. It seems that many trusts feel that enough is enough and are turning to an exciting alternative initiative which it seems is delivering significant benefits. That initiative is mediation.

This short survey was produced as a partnership between The TCM Group and NHS Employers to examine the role of mediation within the NHS. It opens the way for a fuller study in relation to the use and extent of mediation across the NHS. The objective of the survey was to establish the current usage and impact of mediation within trusts. The figures have been surprising...

According to this survey, mediation is gaining in both popularity and credibility within the healthcare sector. Of the 133 trusts who responded to the survey, 83% are already using mediation to resolve workplace disputes with 87% of those trusts reporting a significant reduction in the number of grievances. 43% of trusts reported a fall in the number of employment tribunals they had to defend - directly attributable to introducing a mediation scheme.

Evidence from the survey suggests that NHS trusts are using mediation to secure positive outcomes within an increasingly complex and challenging range of conflicts and change processes. Gill Bellord, Head of employee relations at NHS Employers is particularly enthusiastic about the role of mediation. ***“NHS Employers supports the increased use of mediation in the NHS as an effective means of resolving complaints, managing change and handling workplace disputes. There are benefits in terms of outcomes, maintaining on-going relationships and value for money.”***

Mediation can be defined as a non-adversarial process of dispute resolution during which an impartial third helps the 2 or more parties have an open and honest conversation and identify 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 internal mediators or external mediators.

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Sample population (n) = 133

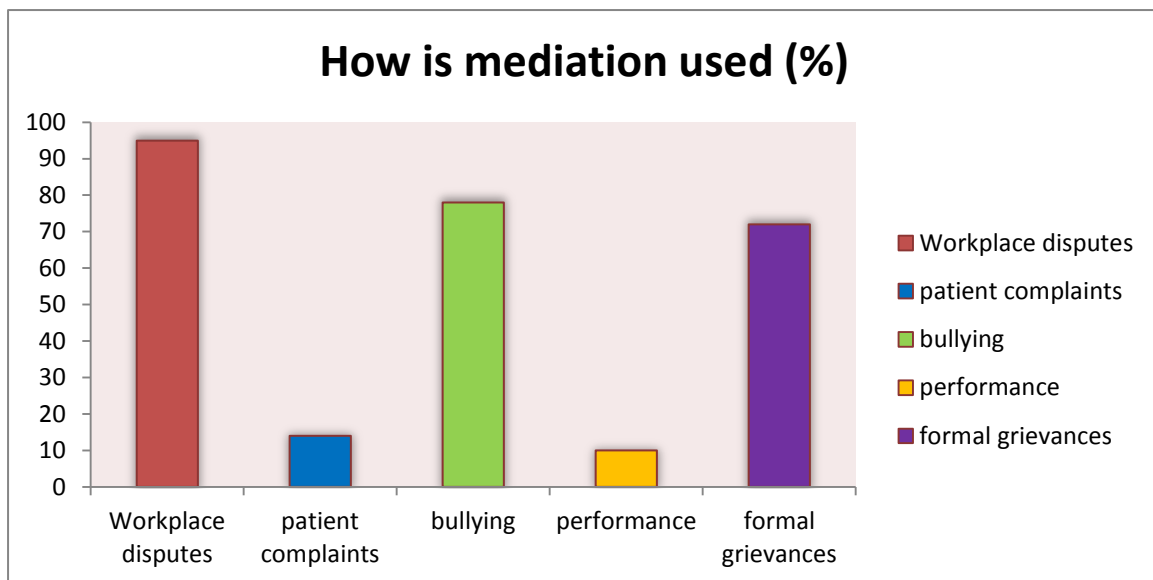
Findings from the survey

1. How is mediation being used?

81% (100) of trusts who responded are currently using mediation. Of those, 95% are using mediation to resolve workplace disputes with 14% using mediation to resolve patient complaints. 78% of trusts use mediation to resolve bullying and harassment issues whilst 10% report using mediation in cases involving performance management issues.

72% of respondents have made mediation a formal aspect of dispute resolution and have written a mediation clause into their grievance procedure.

15% of trusts reported that they are not currently using mediation. However, of those, 41% are actively considering establishing an internal mediation scheme.



Comments from respondents include:

“Mediation is stated as an informal option to try to avoid formal grievances.”

“Mediation is not specifically mentioned in the grievance policy, but is in the Harassment and Bullying at Work Policy. It could be used in the informal stages of dealing with grievances but is not specifically mentioned.”

“Mediation is used as an alternative to the Grievance Procedure and tries to resolve workplace conflict before it goes to a formal grievance procedure”

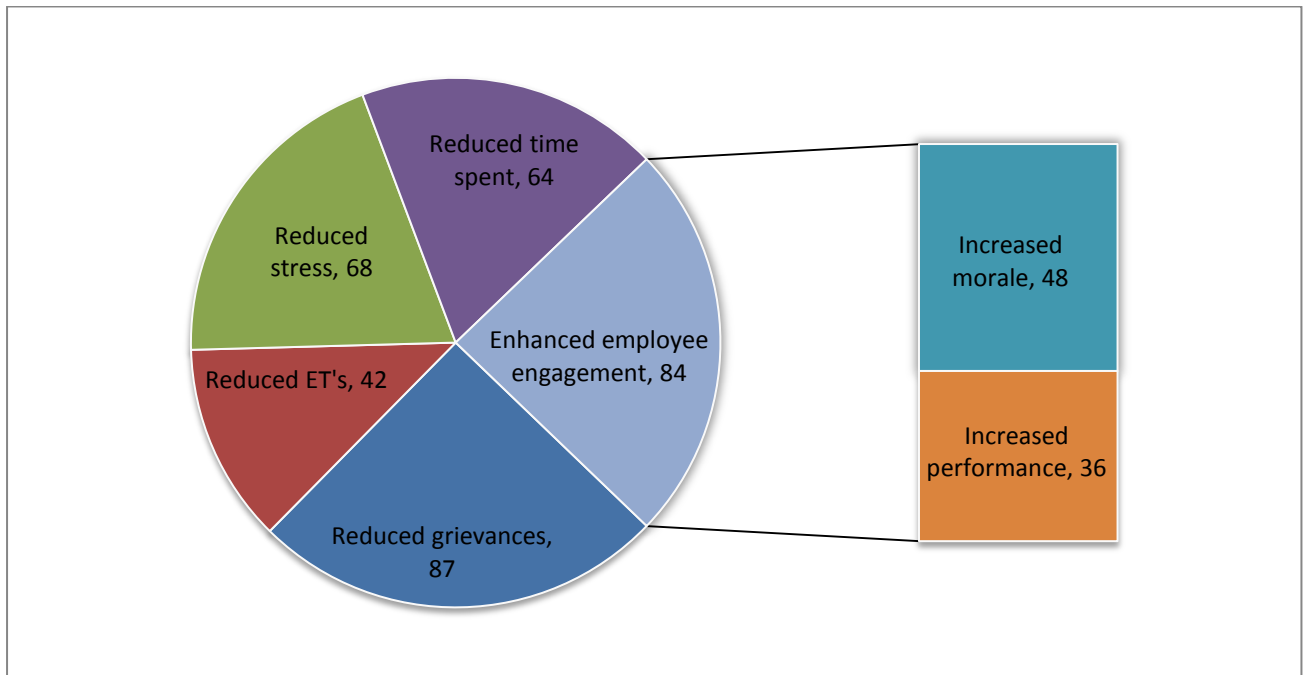
“It is in the Bullying and Harassment Policy - to try to resolve issues informally. If not resolved the case goes to formal investigation in the Grievance Policy”

“We have a separate Dignity at Work Policy which includes the mediation process.”

2. The benefits of mediation

As a result of using mediation, 79% of trusts reported a reduction in the level of grievances with 42% reporting a reduction in Employment Tribunals. 68% of trusts reported a reduction in stress or stress related absence with 64% of trusts stating that they spent less time managing disputes.

84% of trusts reported an improvement in overall employee engagement of which 36% of trusts reported an increase in employee performance with 48% stating that staff morale had increased as arising from the use of mediation.



Comments from respondents include:

"I think that there is a strong case for increased use of mediation, but it does require managers with good skills in mediation along with buy in from individuals to seek resolution through these means."

"Mediation has delivered improved working relationships. Conflict resolution is more effective because the outcome of formal action doesn't always remedy the bad feelings experienced as a consequence. Mediation allows people to move on in a positive way."

"There is an increased belief that the trust is listening to staff concerns and taking positive action to resolve issues"

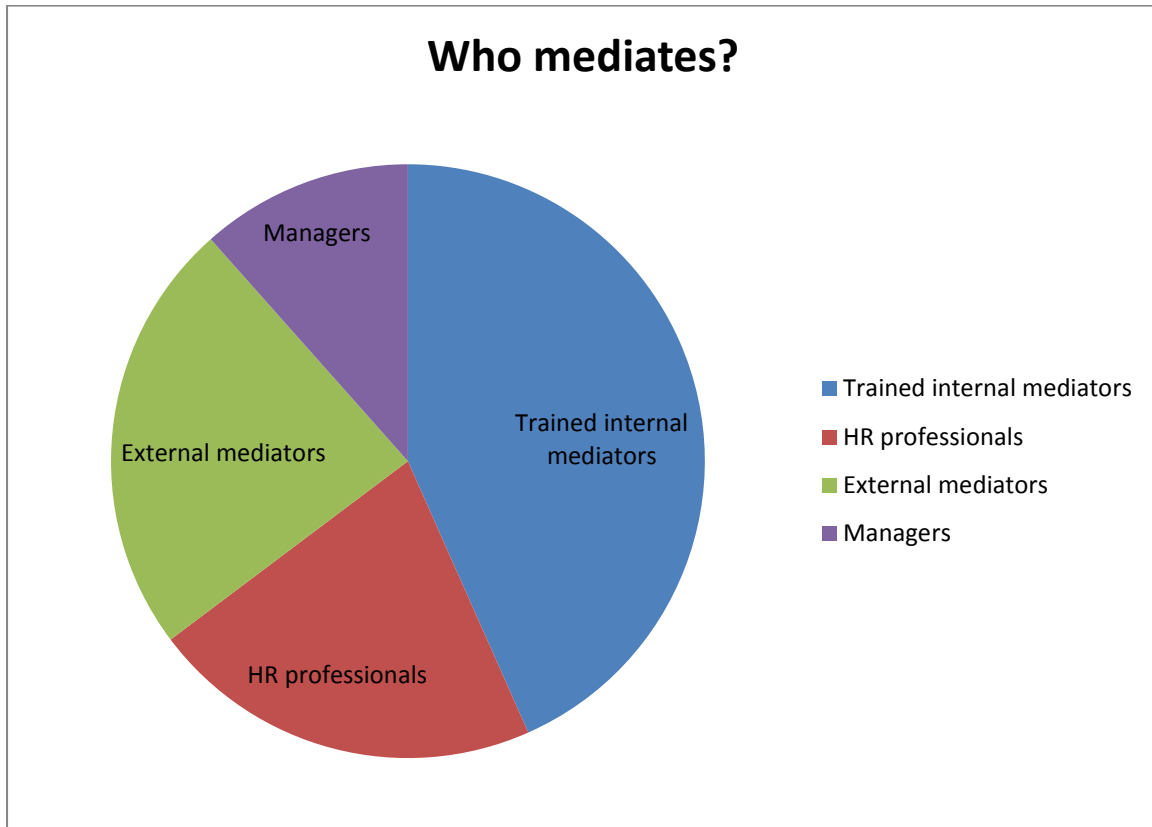
"There has been a better staff side engagement in resolving staff concerns and issues"

"I would like to tick all the boxes - but it has not been researched in the Trust. We know that we resolve 80% of disputes referred to us and that staff report less sickness absence. Mediation is less time consuming than formal investigation. Staff are much happier when not in conflict, as are the wider team. Staff do not perform well when in conflict"

"It has been difficult to quantify benefits"

3. Who mediates?

75% of trusts have access to a team of internal mediators trained to standard equivalent to the TCM accredited mediator status. 37% of trusts use HR professionals to act as mediators and 42 of trusts have access to external mediators. 20 % of trusts are using their managers to work as mediators. There is a mix of stakeholders trained to mediate with some trusts stating that they don't use HR or staff side to mediate whilst other trusts actively use HR as mediators.



Comments from respondents include:

"We use managers and clinicians who are trained"

"We use external mediators for situations which we feel require mediation"

"Our Internal mediators are from a range of backgrounds e.g. staffside, management, HR etc."

"We are looking to introduce internally trained mediators (not HR or staff side)"

"One staff member was able to complete this training when it was offered but more training is required as many other people are interested."

"Formal mediation is completed by formally trained internal staff. Our managers are trained in dispute resolution, but not full mediation"

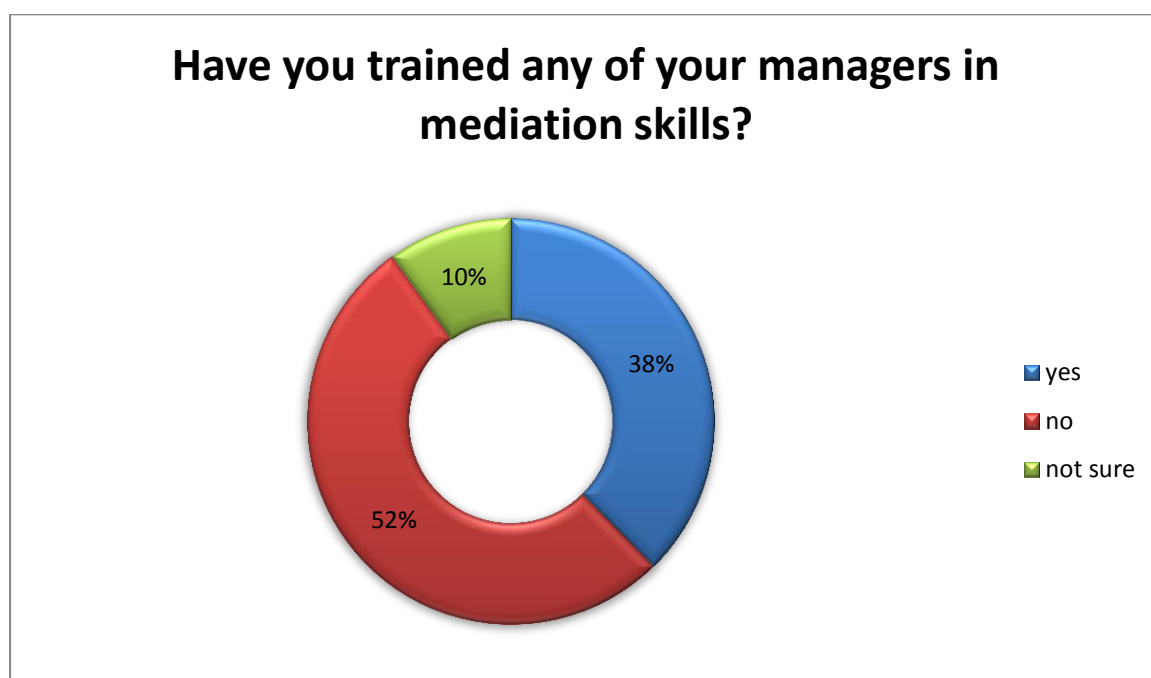
"Some of the HR team are trained mediators; however to mediate in the Trust they step outside their HR role."

"We have a trained internal mediator who is part of HR team"

4. Training managers to resolve disputes

Training managers and leaders to spot, prevent and resolve disputes is a key element of an effective dispute resolution strategy. Of the trusts who responded to the survey, 38% had delivered training for managers whilst 52% had yet to do so.

Some trusts reported that they intend to embark on mediation skills training for managers. However, the findings from this section of the survey suggest a need for further training for NHS managers to help them secure better outcomes from conflict.



Comments from respondents include:

“Not in mediation skills but we have in Staff Resolution and dealing with difficult conversations”

“Limited training has been undertaken in the past by HR and some operational managers.”

“We are just about to start this process”

“We will be training internal mediators (not necessarily managers)”

“Critical conversation training has been provided”

“Yes although it is the HR function that are primarily trained currently in full mediation. We are rolling out a programme to extend this to other trust staff shortly.

“Training is currently taking place”

“Managers can access 'awareness' sessions related to our Dignity at Work policy and procedure”

“We have trained 10 HR staff and 2 Staff-side. We see a real benefit to taking a 'partnership' approach to the roll out of mediation.”

5. Conclusion

In conclusion, the evidence suggests that mediation works. The extensive benefits of mediation are only just starting to become clear and more needs to be done to explore the role, the impact and the costs associated with mediation.

Evidence suggests that mediation is being used in multivariate issues ranging from resolving disputes between colleagues to managing conflict between healthcare professionals, patients and their families. However, reduced time spent dealing with grievances and litigation, reduced costs, reduced stress and increasing levels of wellbeing, engagement and productivity are major contributors to a modern and successful NHS. Mediation seems to be delivering in each of these areas. Certainly the significant impact on Employment Tribunals requires further analysis as this offers a significant cost saving to the NHS.

The TCM Group will continue to undertake research in this important area and to forge partnerships with organisations like NHS Employers to study the role and impact of mediation within the NHS. It is certainly encouraging that, for those trusts that are now using this new approach, it seems that, at long last, a meaningful and highly effective alternative has been found to break the deadlock that traditional dispute resolution procedures seem to generate and perpetuate.

6. Thanks to the following trusts who participated in the survey:

- Cambridge University Hospitals NHS Foundation Trust
- Mid Staffordshire NHS
- South Warwickshire NHS Foundation Trust
- The Ipswich Hospital NHS Trust
- North Tees & Hartlepool NHS Foundation Trust
- Dorset HealthCare University Foundation Trust
- IOW NHS Trust
- St George's Healthcare NHS Trust Pennine Acute Hospitals NHS Trust
- South Staffs & Shropshire Healthcare FT
- Leeds and York Partnerships NHS Foundation Trust
- Liverpool Women's NHS FT
- Milton Keynes Community Health Services
- West Suffolk NHS foundation trust
- West London Mental Health Trust
- North Tees and Hartlepool
- Tees Esk and Wear Valley NHS Foundation Trust
- NHS South Essex
- NHS Milton Keynes and Northamptonshire
- Heart of England NHS FT
- Lincolnshire Partnership NHS Foundation Trust
- Burton Hospitals NHS FT
- Kingston Hospital NHS Trust
- Southern Health Foundation Trust
- NHS Blood and Transplant
- Barts Health
- Leeds Community Healthcare
- Hounslow & Richmond Community Healthcare NHS Trust
- St.Georges Healthcare
- North East London and the City Cluster of PCTs
- Birmingham Community Healthcare NHS Trust
- Barts Health NHS Trust Aug
- George Eliot Hospital NHS Trust
- Devon Partnership Trust
- Humber NHS Foundation Trust
- Medway NHS Foundation Trust
- Vale of York CVG
- East of England Ambulance Service NHS Trust
- NHS Surrey
- Portsmouth Hospitals Trust
- Mersey Care NHS Trust
- West Midlands SHA
- NORTHUMBERLAND TYNE AND WEAR NHS TRUST
- East Lancs PCT
- Brighton and Sussex University Hospitals
- UHB
- Cluster of NHS Devon, Plymouth and Torbay
- York Teaching Hospital NHS Foundation Trust
- George Eliot Hospital NHS Trust
- Royal Devon & Exeter NHS Foundation Trust

