

10 Things Every Mediator Needs

Kluwer Mediation Blog

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This time of year in Ireland (August) is referred to by many as "the silly season". Courts, legal offices and many other public services close for holidays, children get bored having been on holidays for 6 weeks already, people flock to last minute sun holiday destinations as they realise that, yet again, it is going to rain until September, at least, and those that stay behind valiantly continue having barbecues despite the rain.

It also gives those of us working in law-related areas like mediation a little space (usually) to catch up on long neglected paperwork and reflect on what has gone before and what lies ahead. I chose to reflect on what a successful mediator really needs yesterday, while running a half marathon through the stunning scenery of Clew Bay, County Mayo in alternating glorious sunshine and torrential downpours. Here are the results:

An office

Sounds obvious, I know - but many mediators, particularly in the civil and commercial field, spend their time between different conference centres and hotel rooms, sometimes without even a room of their own, if clients' budgets are tight. I have often squeezed in behind the reception desk of a hotel to print out a Memorandum of Agreement, or stood in anonymous corridors gathering my thoughts before entering a caucus room. One's own space, set up correctly and comfortably, with everything to hand, goes a long way towards making for a calmer, more settled and more secure mediation environment. The flipside to that is, of course, that when in a hotel, someone else provides the following, namely:

Chocolate and other stimulants

Mediation is hungry work. More importantly, something as simple as a cup of tea and a biscuit (this is Ireland after all) can make a huge difference to a client who is struggling with difficult emotions, has to sit in the same room as an estranged spouse for the first time, or who is stressed out and nervous by the whole process. I have often managed a surprising or upsetting revelation with the offer of a cup of coffee, and I have found men, in particular, to be grateful for the small space given by reaching for a sweet when overcome with the emotion of a situation. I do spend a lot of time however gathering up sweet papers which have been screwed up into tiny little balls...

Distributive attention

One of the more difficult tasks of mediation is to engage in accurate, active listening and gathering of information while still paying attention to what else is going on - one party's uncomfortable fidgeting because the sun is in their eyes, the other's reaction to the disclosure of complex financial information, the mood, the parties' body language and engagement, their energy levels, and whether they (or you!) need a break. A comfortable office, as above, can eliminate some distractions, but the mediator's attention is essential. When the amount of conflicting information gets too much, slowing the process down can help, as can asking clarifying questions, and summarising and confirming information. Also useful can be ...

A flipchart

...which is invaluable for clarifying complex information, particularly of the financial kind, and also for setting out options, preferences, positions and ideas. I have often found that setting out the positions of the parties on the flipchart, and pointing out the (hopefully) relatively small gap between them, then leaving this sheet in the background while discussing another topic can be very useful in giving parties the time to think about compromise. One wonderful product I discovered at a mediation conference in Berlin recently was sheets of flipchart paper that are made from a type of self-adhesive (but removable) plastic, will stick to anything, the wall, or a flipchart easel and come in graph, blank, and black (for chalk) versions. No more lugging a flipchart around from place to place where a piece of blank wall is available.

Endless patience

Patience must be one of, if not the most important mediation skill there is. An ability to listen in an active and interested manner, even when the same arguments are being made again and again, when clients answer a completely different question to the one they are asked, when walkouts are threatened, or when people find it impossible to get past the "venting" stage of mediation into more productive discussions. I have struggled with this latter skill more since expanding into online mediation, where e-mails can arrive at any time of the day or night, and interaction is not "boxed off" into 1.5 hour or half day sessions. If good time and process management are not employed in this domain, a mediator risks running out of patience, which will do neither them, nor the parties or the process any good. Online mediators be warned...

Colleagues

A useful antidote to this and other practice dilemmas are colleagues. Whether in the format of formal supervision (more on that in my September blog) or over a cup of coffee or a pint (see earlier references to my geographical location) a listening ear, a sense of someone understanding what keeps you awake at night, or just good sensible advice is chicken soup for the mediator's soul. I have often rung a colleague, ranted down the phone for twenty minutes, barely allowed them to say anything in reply and then felt much better afterwards. (you know who you are...sorry!) The simple task of setting out the issues to someone else and getting them off my chest were enough.

Work

What we all want and need but most of us don't have enough of... I remain endlessly optimistic on this topic however, in view of the fact that my own practice is growing, slowly but surely, and when looking at the drive, in this and other countries, to promote mediation by means of legislation, information, and political initiatives. Also, endless optimism is another one of the skills every mediator should have...

A portable printer

Having spent enough time trying to get documentation printed in less than ideal situations during mediation, I invested in a small printer, approximately the size of the average netbook, some time ago. Even if I am in the office where I have an ordinary printer, I keep it on the desk to run off mediation summaries, receipts, to-do lists and similar things. When mediating off-site, it is an essential piece of equipment which allows you to draft, revise and print a mediated agreement with the input of all the parties, and without risking any compromises to confidentiality, such as screens at hotel receptions being left on or drafts of documents being left behind. It doesn't do any harm either to one's professionalism and process management skills, in the eyes of the participants. Just make sure you have enough ink when the final of 5 drafts of a mediated agreement is ready to be printed at 3 am after 16 hours of mediation....

A sense of perspective

As with all professionals, particularly those who work with people, mediators get tired, bored, frustrated, and irritated. At times such as those, when a mediation isn't going well, when you have too much or too little work, when parties do not seem to want to move forward, a sense of perspective is invaluable. Taking a step back, taking a break and looking at the bigger picture is not only helpful for clients but for mediators as well. Remembering why you chose to get into mediation, for example, or reading about challenges someone else is facing (see below) can be enough to extend your horizon beyond the current impasse or annoyance and allow you to take a fresh approach to things.

A blog

Having a space to record your ramblings and musings on mediation and its role in your life is a wonderful tool for maintaining your sanity. Enough said....!