
Kluwer Mediation Blog

All Change!

Sabine Walsh (Sabine Walsh Mediation) · Friday, June 5th, 2015

Ireland is changing. It is changing at a pace that few would have anticipated. Recent weeks have seen the latest step in the process of building peace and reconciliation between Ireland and the UK with Prince Charles making a meaningful and moving visit to Mullaghmore, County Sligo, the site of the IRA bombing which took the life of his uncle, Lord Mountbatten, and others. In the same week, hot on the heels of a far-reaching and extensive piece of family law reform legislation, Ireland became the first country to legalise same-sex marriage by means of a popular vote. The population of a country known for its traditional values and strong influence of the Catholic Church on law and values, voted overwhelming in favour of allowing same-sex couples to marry, adding yet another amendment to the Constitution of 1937, which many feel is no longer representative of the people to whom it applies.

Not everyone is in favour of this type of change. In fact, as humans we tend to be wary of change. Numerous studies have shown that most people associate change with risk and are averse to such risk. Whole industries have grown up around change management, particularly in the corporate world, which aim to help people make change easier for themselves and their staff.

So what does this all have to do with mediation? Thoughts about mediation and change came to me recently while working with a couple who, having agreed to attend mediation to help them manage their separation, decided to give the relationship another go. Wonderful, I thought, and referred them to a marriage counselling service. Alas, one month later they were back, both quite angry and both now sure that separation was the correct course of action. In the course of exploring this, it came through that what had driven them to try again was not, in fact, a recognition that there was a relationship left to save or that the couple still had feelings for each other, but a fear of the other option, the unknown and unpredictable consequences of acting on the decision to separate. This would include a new house, a new schedule, changed finances, possibly even new partners, all of this appeared frightening and overwhelming.

This experience reinforced in me the idea that whether we are working with separating couples, with entrenched neighbours, with a toxic work environment or with shareholders disagreeing over the future of their company, as mediators we are in fact working in change management. Conflict often brings about change, and change can be a trigger for conflict. Our clients need help to navigate change, which is often frightening and sometimes devastating, even when it is the right choice to make. This lens can therefore be an important one through which to view our practice. What do we and what can we do to help our clients negotiate change?

To begin with, we must never underestimate the value of acknowledging the fact that change is

occurring, and that it is disruptive, even when it is desired. This disruption can trigger emotions such as sadness, grief, fear and anger. Some years ago I experienced an extraordinary outburst by a party to a mediation at the point of signing an agreement which had been reached relatively easily. In retrospect, I wondered whether the outburst and its fall-out could have been avoided had I acknowledged the enormity of the step the parties were taking, even if they were doing it willingly. Normalising the bewilderment and sense of loss that change can bring about is equally important, particularly when parties to a conflict are reacting very differently to the change. Again, in the context of family mediation, it is not unusual for one member of a couple to have been contemplating separation for quite some time, and for them therefore to be further along in the grieving process than the other, or for one party to show more emotion than the other. If a mediator is able to point out that such differences in reaction are normal, this can help to diffuse potential flashpoints in a mediation and ensure that each party's reaction is validated within the process.

Another set of mediation strategies – mapping options, exploring alternatives and reality testing decisions, has vital importance in change management. In going through the stages of this process, the unknown becomes, if not known, at least visible, and fears can be addressed. Asking parties to articulate their fears about a new situation or option, particularly when other strategies have not worked, can be illuminating, if not even cathartic. A couple recently came to mediation with a colleague of mine anticipating a lengthy process likely to end in court without agreement. There had been no communication between them at all in recent months. During the third session, the mediator asked them about their fears for the future. Both expressed a fear that the other “wanted everything” and they would be left with nothing (financially). What both in fact wanted, was a fair, equal split. The mediator was able to facilitate each party in offering the other the reassurance they were seeking, an amicable settlement was reached, and spontaneous apologies for hostile behaviours offered and accepted.

One could give many more examples of mediation as change management, and how specific skills assist clients in dealing with the fear of the unknown that conflict brings, but perhaps it is enough to remind ourselves every now and then that change, even when necessary and desirable, is hard, can be frightening and upsetting, and requires a great deal of patience in its management. When working in mediation every day, it can be easy to forget that our clients are going through (hopefully) once in a lifetime changes, and that we may, for them, be the only calm point in very stormy seas for a time. If we can help them navigate these seas with respect and empathy, they will be able to see the positive outcomes sooner than if they remain locked in conflict. As humans we have no choice but to embrace change, as it will come whether we welcome it or not. Acknowledging this in mediation and working with it can, however, make the process a little easier.

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