

Kluwer Mediation Blog

Total Recall

Geoff Sharp (Brick Court Chambers / Clifton Chambers) · Thursday, August 2nd, 2018



Mediators need to remember stuff - lots of stuff.

Sure, it helps to have a *flush mentality* - as my very first, and now long gone, boss used to tell me. Mr. Dalgety would come back to the office after a hearing, raise his hand beside his head and pull an imaginary chain before moving to his next case.

Likewise for the duration of a mediation, especially on mediation day, successful mediators need to hold, and retrieve, large amounts of data. Our ability to *take in* information, *store it*, and *recall it* is crucial to our task.

It's short term working memory that mediators need most, kind of like the temporary storage (RAM) in your laptop that you write over when you need more space but without it clogging up your long term memory - names, timelines and figures... that type of thing. Just ask any busy mediator the names of the people in last Monday's mediation and they will struggle. It has been written over by the two mediations since.

At mediation, mediators use the quick recall of facts and documents from pre reading to establish credibility and to demonstrate thorough preparation. We pick up industry jargon at the table and repeat it back for the same reasons. We master names quickly at the start of the day to create connections, which in turn builds trust.

And read any one of the numerous research projects that attempt to distill the secrets

of successful mediators showing that in demand mediators are regarded as *quick studies*, able to grasp key facts and issues quickly enough and well enough to be credible, especially when it comes time to reality test.

And all this depends on a mediator's memory. It's an essential asset for an active mediator. All that information to process in such a compressed time, often flushing three times a week - and while our ability to memorise is partly inbuilt, it is also partly learnt.

For me, the inbuilt part is all about being interested in the mediation. If I am learning about metal fatigue of geothermal steam powered turbine blades or the permeability and geotechnical risk of ground below a proposed boat marina, I'm all over it - and probably overly inquisitive for a neutral - but it means I don't have too much trouble remembering the factual matrix upon which these kinds of disputes rely.

For other mediations, not so much - so I need to find an efficient way of temporarily storing information.

But I have learnt techniques for these types of mediations, all of which rely on my theory that memory is *predominantly visual* and that it is greatly enhanced by *visual thinking*.

The other ways we remember are largely *acoustic* (ever repeated a phone number over and over in your head ?) and *semantic* (meaning), but for me *pictures* serve me best as a mediator.

For instance, prior to a mediation, I will have drawn the subject dispute on one page, normally as a wiring diagram and, as I said in a [previous post](#), that will evolve into a more sophisticated visual as the dispute reveals itself via documentation and premediation meetings.

I now also like to memorise the entire timeline relevant to a dispute, because often the sequence of events is a vital part of a mediator's understanding. To do that I have learnt to break it down in whatever makes sense, maybe by event, maybe by date, or even by colour code.

Just like memorizing an 11 digit telephone number like 44792486895 is far more difficult than if you break it up into *chunks*: [country code] +44 » [area code] 79 » [prefix] 248 » [subscriber#] 6895.

This chunking technique has been made easier by a chance encounter with innovative London mediator [Aled Davies](#), founder of Mediator Academy, who introduced me to the concept of creating a *memory palace*, a chunking technique invented by the Romans about 2,500 years ago.

A [memory palace](#) is a place you can visualize and 'store' information in, and a memory journey is a path through that place. The memory journey has stops, (loci or stations) which are the places you choose to put information in. I try to use this method when I am learning the chronology of the dispute or maybe if there is an essentially linear structure to the legal or commercial issues - so mainly facts and information. For me

it doesn't seem to work so well for conceptual or creative thought. I am by no means an expert yet but I can see with practice I might eventually get there.

The most common type of memory palace involves a journey through a place you know well, like your home, office or town, maybe even your morning commute. Along that journey there will be specific loci that you always visit in the same order.

Just to get the hang of it, start with something mundane like a shopping list of *coffee/salad/vegetables/bread/kitchen paper/fish/chicken/pork chops/soup/fruit/bath cleaner*.

Then associate this list with your drive to your favourite supermarket. Mnemonic images therefore appear as:

1. Front door: spilt coffee grains on the doormat
2. Rose bush in front garden: growing lettuce leaves and tomatoes around the roses.
3. Car: with potatoes, onions and cauliflower on the driver's seat.
4. End of the road: an arch of French bread over the road
5. Past garage: with sign wrapped in kitchen roll
6. Under railway bridge: from which haddock and cod are dangling by their tails.
7. Traffic lights: chickens squawking and flapping on top of lights
8. Past church: in front of which a pig is doing karate, breaking boards.
9. Under office block: with a soup slick underneath: your car tyres send up jets of tomato soup as you drive through it.
10. Past car park: with apples and oranges tumbling from the top level.
11. Supermarket car park: a filthy bath is parked in the space next to your car!

And if you are interested in visual thinking generally, especially if you are the kind of mediator who likes working with parties on a whiteboard, take a look at Dan Roam's book [Back of the Napkin](#).

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