

Kluwer Mediation Blog

Sorry is the hardest word...

Sabine Walsh (Sabine Walsh Mediation) · Sunday, April 6th, 2014

The last few weeks have seen a failure to apologise result in a political crisis, a senior police official being forced to resign, and our Minister for Justice's already wobbly pedestal threaten to give way entirely beneath him. The coming weeks and months will tell whether the "Minister for Borrowed Time" as he has become known, will survive this latest scandal, but the damage that, among other issues, the failure to issue an apology to two Whistleblowers, who have been vindicated and lauded as heroes by other members of Government, has done the reputation of the Minister enormous damage.

Why, then, do people find it so difficult to apologise? As mediators, we all know the power of an apology from textbooks, research and our own experiences. Only a few days ago, a family mediation which I had feared was foundering turned around completely when one party apologised in writing to the other for something that had occurred in a previous session. I can take no credit whatsoever for having brought the apology about, but its power, and the strength of character it revealed changed the whole tone of the mediation.

In Ireland, as no doubt in many countries, one regularly reads frustrated interviews with victims of negligence, whether medical, professional or otherwise, who have received compensation and vindication but not the longed-for apology. Our legal system facilitates this, by insisting on an apology being equal to an admission of guilt and the resulting loss of the legal action. Hospitals, for example, can pay huge sums of money in settlement "without admission of liability" thereby firmly shutting the door on an apology that might have meant so much more to the injured party. Apology equals vulnerability, and vulnerability is not something legal advisers will let their clients show in the adversarial legal system.

More broadly, apologies by Church and State Institutions, if and when they come, will either come many years too late or in the form of setting up a Tribunal of Enquiry or an Investigating Committee, and the institution thereby, as John Rothchild has said "announces concrete steps to ensure that whatever they haven't admitted to doing will never happen again." (1994, p.51). These "apologies" are often only forced after television programmes or investigative journalists have brought the failings to light. And boy does the Irish Church, State, and Semi State have a lot to apologise for. One recent example is that of the Central Remedial Clinic, a clinic working with adults and children with disabilities, part funded by the State and part by charitable donations. It recently emerged that the charitable donations the clinic had been receiving from members of the public, had been used to fund the inflated salaries and outrageous expense accounts of its senior executives. Following general public and government outrage, the relevant people resigned and an investigation was initiated, but no apology has been made to the thousands of people who ran

marathons, hosted cake sales and generally dug into their pockets to – as they now know – facilitate senior executives’ lavish lifestyles.

Why do we find it so difficult to apologise then, if not doing so generally leads to a deterioration of the situation, the relationship and, for those in the spotlight, their reputation. Is it the perceived loss of face, the admission of guilt or error, the feeling of vulnerability? Is it the fear of a loss of control or bargaining power in a dispute? I would challenge anyone to think about the last time they apologised, in a genuine and heartfelt way albeit, and not to admit they felt at least a little bit better afterwards. Is carrying around the burden of guilt or regret really easier than saying sorry? For many it is.

So what can we do as mediators to make it easier? On a practical and legal level, the confidentiality of the mediation process of itself can facilitate an “off the record” apology which may not have been possible in litigation. This is one of the reasons why medical negligence cases are increasingly seen as suitable for mediation in this country. Beyond that, we need to make it safe for our clients to find their way to an apology. We need to ensure that we remain non-judgmental, no matter how bad the behaviour may have been, while also creating a safe space for the hurt on the part of the injured party (or often both parties) to be brought into the open and acknowledged. We need to watch for the signs of regret, of emerging understanding of the consequences or words or actions, and for the small windows of light that might allow us to ask the question or make the observation that can create the path to an apology. Most of all, we have to be patient. Moving from anger to understanding to regret to reparation takes time. We have to support and gently encourage our clients to walk this path and to reach a place where they genuinely feel the need to make amends.

A hollow apology, brought about by external pressure or advice, or a desire to “get past it and move on” can be worse than no apology at all. The Minister for Justice made that abundantly clear with his way overdue apology issued through clenched teeth and only after substantial political arm twisting. All experienced mediators will know the difference between a genuine apology and one that is forced and our job, therefore, is to wait and watch until a real one comes along. When it does come along, as my clients showed me last week, it changes everything, and serves as one of those little reminders of how privileged we are to be doing the work we do.

“Halfhearted or insincere apologies are often worse than not apologizing at all because recipients find them insulting. If you’ve done something wrong in your dealings with another person, it’s as if there’s an infection in your relationship. A good apology is like an antibiotic; a bad apology is like rubbing salt in the wound.” (Randy Pausch, the Last Lecture)

To make sure you do not miss out on regular updates from the Kluwer Mediation Blog, please [subscribe here](#).

Profile Navigator and Relationship Indicator

Includes 7,300+ profiles of arbitrators, expert witnesses, counsels & 13,500+ relationships to

uncover potential conflicts of interest.

Learn how **Kluwer Arbitration** can support you.

Learn more about the
newly-updated
*Profile Navigator and
Relationship Indicator*



This entry was posted on Sunday, April 6th, 2014 at 4:50 pm and is filed under [Apologies](#), [Apology](#), [Clients](#), [Confidentiality](#), [General](#), [Ireland](#), [Lawyers](#), [Mediation Outcomes](#), [Success in mediation](#). You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can skip to the end and leave a response. Pinging is currently not allowed.