

Kluwer Mediation Blog

Time Limited Mediation

Charlie Irvine (University of Strathclyde) · Sunday, February 10th, 2019



“It is pointless to do with more what can be done with fewer.” William of Ockham

A colleague recently asked me to present a workshop to employment mediators on ‘Time Limited Mediation.’ Until that moment, like Molière’s bourgeois gentleman realising he’s been speaking prose all his life, it hadn’t occurred to me that this was distinctive. To use 21st century parlance ‘I didn’t even know that was a thing!’ And like that gentleman I’m grateful: the request gave me the chance to reflect on an approach that is widespread and effective. What follows is an attempt to set out some the characteristics of time limited mediation as it has evolved in my own practice, most notably in employment and court-annexed mediation.

Description or Prescription?

First a word on mediation models. Nearly 300 years ago David Hume cautioned against deducing ‘ought’ from ‘is’ (though this is often overstated: see [Hume on Is and Ought](#)). Put simply, it is not

necessarily logical to build prescriptions (what ought to be) from descriptions (what is). Yet it is almost impossible to resist. Some mediation models don't try: starting from the authors' observations of mediation practice (often poor practice) they move to prescribe a better way, and a model is born. Bush and Folger's "Transformative Mediation" (2005) and Winslade and Monk's "Narrative Mediation" (2001) are probably the best known instances, with the latter even subtitled "A New Approach to Conflict Resolution".

Other scholars clearly set out to describe, offering their findings back to practitioners in the interests of expanding our understanding. Kressel's "Strategic Style" (2007) is a good example. Most famously, Riskin's "Grid for the Perplexed" (1996) coined the evaluative/facilitative debate. However, Riskin's article makes my point for me: although clearly stating its intention was to "facilitate clear thinking" (p. 48), facilitative and evaluative mediation have become models in their own right, with adherents and critics. Despite this, my description of time-limited mediation falls into that camp – I hope to generate debate and discussion rather than saying how things 'should' be done.

Time Limited Mediation

In commercial and employment mediation it is common practice to offer a full day's mediation. This tends to follow a (very rough) pattern, with the morning spent understanding and exploring the problems and issues and much of the afternoon devoted to negotiating a settlement. Mediator fees tend to be pitched at commercial rates.

Some practitioners have developed a practice of time-limited mediation, confining sessions to 2 or 3 hours. The reasons are varied and can be any of:

- Financial constraints, including a competitive market
- Parties unable or unwilling to set aside a whole day
- A view that mediations tend to settle towards the end of whatever time is allotted
- A strongly held commitment to brief interventions: "Mediation is a goal-focused, task-oriented, time-limited process" (Kelly 1983, p. 35)
- Training or experience in other settings, such as family or small claims mediation
- A view that this is what the parties prefer: "For these people, the ... mediation process within a brief, time-limited period is the intervention of choice" (Wallerstein 1987, p. 17)

It can also be argued that time-limited mediation is consistent with at least one of the influences on the modern mediation movement: [Solution-Focused Brief Therapy](#). Its founders insisted that brief doesn't mean short term; rather, it is focused on goals. "'Brief therapy' simply means therapy that takes as few sessions as possible, not even one more than is necessary, for you to develop a satisfactory solution" (De Shazer 1991).

Some of SFBT's basic assumptions resonate well with mediation:

- *Small changes result in bigger changes*
- *Since you can't change the past concentrate on the future*
- *People have the resources necessary to help themselves; they are the experts*
- *Every human being, relationship and situation is unique*
- *Every problem has at least one exception.*

A process map

Moving beyond the pros and cons of time-limited mediation, a certain pattern seems to have

emerged in my practice.

Pre-mediation

In spite of the label ‘time-limited’ many practitioners, particularly in employment matters, insist on a one-to-one meeting with each party prior to any joint mediation session. A great deal of ground is covered in these meetings, enabling the participant to feel heard while allowing the mediator to discuss difficult or challenging issues. They typically last 1-2 hours.

Joint Session

Intro:

Stressing conversation and each party’s personal responsibility for the outcome (5 minutes or less).

Storytelling:

Going backwards rather than forwards and allowing, even encouraging, the most difficult issues to come to the surface and looking for glimmers of hope, or “exceptions” to the conflict (1 – 1.5 hours).

Break:

The mediator calls a temporary halt and speaks to each person in private.

Two key questions: ‘What do you make of what you’ve heard so far?’ and ‘So, what needs to be done to resolve matters?’

(From 5 to 30 minutes with each).

Reconvene:

Begin to explore solutions; or, if parties are not ready/willing to consider solutions, speak of ‘trust-building’ and invite parties to think of and request small steps in the right direction. Record what has been agreed (20 to 60 minutes).

Review

A review meeting is always scheduled for a period of 4-8 weeks after the joint session. This works well with the trust-building theme; however, it is common for parties to cancel the review. I take this as a good sign.

Two benefits

This is a very approximate representation of a pattern with great variation. Two things consistently occur however:

- 1) Some of the issues identified at the start simply disappear;
- 2) As the clock ticks down, parties become more pragmatic in what they propose and agree to.

Conclusion

It seems clear that time-limited mediation is widely used and here to stay, bolstered by both pragmatic and principled benefits. There are undoubtedly drawbacks too, the most obvious being

running out of time before agreement is reached. And I haven't mentioned multi-session mediation, widely used in family disputes, combining short, focused sessions with time to reflect between meetings. Family mediators would probably argue this provides the best of all worlds, but it requires a fair level of commitment.

There are certainly more variants of which I'm unaware. And yet I keep coming back to time limited mediation, perhaps by choice, perhaps by circumstance. At its best it is inexpensive, effective and light on its feet. Perhaps more importantly it seems a comfortable and humane way to dip into the ever-shifting stream of other people's conflicts.

References

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