

# Kluwer Mediation Blog

## “If you build it, they will come” – why mediators should be skeptical

Rosemary Howell (University of New South Wales) · Tuesday, November 22nd, 2022



Photo by Joachim Köhler.

In the famous story of Noah's Ark, Noah questions God about how he will find the animals he has been instructed to put in the ark. God replies, 'If you build it, they will come'.

The consistent repetition of this quotation throughout history (think of Kevin Costner's movie [Field of Dreams](#) ) has created something of a business mantra about pursuing our dreams, however improbable – the idea that if we build something and provide the right resources people will be drawn to it, see the value of it and be prepared to pay for it.

### How this connects to mediation

The mediation world offers the perfect example.

In the early days of mediation, the dream of a mediation-led conflict resolution framework seemed an easy win – create a large pool of mediators and the parties would come, bring their conflicts for us to resolve and reward us generously.

It was a great dream and numbers of dispute resolution bodies quickly emerged whose primary work (and source of income) was training new mediators. It was slow to take off and the parties with their conflicts did not come in great numbers as the biblical phrase had encouraged us to believe they would.

However, many would-be mediators who were keen to reinvent themselves, were still drawn to the promise, so training proceeded apace. The idea of differentiation also began to emerge as training bodies recognised that accreditation was another offering in which they could encourage mediators to invest.

### But have they come?

If we fast-forward to today it is obvious that the mantra has not delivered on its promise.

Thousands of new mediators (my estimation – hard data is elusive) continue to be trained by the

growing number of mediator training bodies around the world. Training is a cash cow.

Many universities have now entered the space offering academic qualifications as well as training.

So the pool of available mediators keeps growing and growing.....

But the empirical and anecdotal evidence tells a disappointing story.

This year the Mediator Standards Board (MSB), the peak standards-setting vehicle in Australia which manages the national accreditation system, received the outcome of a far-reaching [Review](#) that it commissioned. This will culminate in enhanced rigour in the accreditation process.

The Review has also provided us with a trove of empirical data about what mediators do in their mediation practice. Significantly this confirmed that ‘for a large proportion of mediators, it is a low-paid, insecure and low-demand industry that is difficult to enter’.

There is evidence everywhere that this is not limited to Australia.

I have regularly had the pleasure of attending meetings of The Mediators New Breakfast Club (MNBC), an informal networking club in London for mediators since 2008. Now available online, the Club’s growing membership continues to report information in line with the Australian research.

Anecdotal exchanges with mediation colleagues around the world tell a similar story.

It is a huge disappointment – not just that mediation has failed to become an occupation with significant career-building opportunities for new entrants but that as [Dr Anna Howard’s](#) important research exposes, the promise of mediation we all believed in has not been realised.

### **So what went wrong?**

We have always known that few conflicts actually reach the doors of the court but that does not mean that conflict is in short supply.

Exploring the significant [Civil Litigation Research Project](#) Final Report, we get some understanding of the huge number of perceived injurious events happening all around us.

The problem is not an absence of conflicts needing resolution. The problem is that mediators and problems requiring resolution have not readily found each other.

### **What we failed to do (as a collective)**

In the early days we missed a lot of opportunities to band together to:

- Build widespread community and commercial recognition of what mediation is and how it works. Even today, I am constantly surprised at the ongoing confusion with meditation – Google is constantly confused!
- Identify the broadest possible sources of potential demand and build effective referral networks
- Persuade politicians and bureaucrats that mediation is a ‘value-adding’ pursuit, featuring durability and relationship repair rather than a ‘cheap and quick’ fix. This could have meant, for example, that mediation schemes rewarded mediators appropriately – recognising and valuing the

long-term benefits rather than offering insultingly low fees over which mediators compete fiercely

- Recognise that competing on price is always a race to the bottom
- Build rigorous and effective training programs in business building including the kind of startup hubs from which other entrepreneurs derive significant benefit
- Create robust, centrally managed and readily accessible mentoring
- Use social media to build brand recognition, not just for individuals (which many do use effectively) but for the greater good of the collective.

It is not too late but we do need to change a lot of our thinking around supply and demand. Work will not magically come to us.

There are opportunities all around us to lend our skills to those needing support in dealing with the many faces of conflict and there is no shortage of conflict!

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