

# Mediation: A Step-by-Step Guide<sup>1</sup>

## Background/Preparation

### Do Background Research

- Check each person for their concerns, leading up to the situation - acknowledge those which are valid, and try to clear up concerns (Often this takes more time than the mediation session itself! However, this may make the difference between a successful session, and one which opens up issues without resolving them! Mediation sessions **can** do harm.)
- Research any information/facts pertinent to the situation (eg. the history of the conflict/relationship)
- Listen to arguments for not changing - and name this as a valid outcome for the process. (Change won't happen unless all participants are willing. The process would then need to focus on how to survive!)
- Clarify the status of mediation session (eg. Is it related to disciplinary procedures? Do the participants have the right/power to make firm decisions? Will their agency support these, regardless of whether they agree or not?)

### Initiate/Negotiate the Mediation Process

- Assess the impact of the conflict ... Is it undermining ability to function? Who is it a problem for? Why?
- Acknowledge/name/question factors which indicate a destructive conflict path as they started to occur.
- Use positive, encouraging language to keep lines of communication open.
- Affirm the **normality** of conflict.
- Affirm the commitment of the parties - bringing in a mediator in itself means conflict is being acknowledged ... a brave (and scary) action!
- Facilitate a tabling of all related information in advance, so that all parties can be made equally aware of different perceptions of the *facts*.
- Check the willingness of all parties to be involved in mediation and organise meetings with each individual (or party) prior to planning a joint session.
- Be clear about the process and its anticipated outcomes. Negotiate these and outline to all parties individually before starting the process.
- Distinguished *personal* and *professional* dimensions of the dilemma. (*You don't need to like each other to work together effectively!*)

---

<sup>1</sup> © Copyright Suzi Quixley 1996 & 2008 (revised). It draws heavily on ideas of participants in a workshop on *Conflict Processing*, Townsville, June 1996.

## Create a Conducive Environment

### Remove Communication Barriers

- Pre-plan a *Deal* re: how to treat each other in session, based on what each party says in individual session with mediator about how they would like to be treated. Include facilitation of discussion between parties through talking *to*, not *at* or *about*, other person.
- Finalise *Deal* and clarify anticipated process and outcomes, before getting into the issues.
- Discuss the impact of power imbalances (eg. boss and worker) before entering mediation.
- Tell each person how much you respect their work (or attitude, or approach to conflict), and why, in **very** concrete terms.
- Ensure that your energy levels are high, and you can focus all your energy on the situation.
- Remove physical barriers between parties (eg. desks) ... alternately, meet in a garden!
- Do not diminish the significance of the conflict, and the difficulty of being in a mediation session, for each participant. (Doing some self disclosure about how I felt about it once can be helpful.)

### Ensure a Comfortable/Supportive Climate

- Affirm that it is OK to be emotional, provided you stay with *I Statements* (ie. no *dumping/put downs*).
- Give each party time to think about the interaction - allowing reflection time **within** the session, as well as between sessions.
- Offer support to each person in explaining their position to the other party.
- Provide means for venting of frustrations (with the option of this being outside of, or away from, the session eg. with the mediator).
- Provide a box of tissues!
- Make sure the space for a session is physically comfortable to work in.

## Mediator Attitude

### Adopt a Non-Intrusive Manner

- Remain calm and *non-threatening* (as distinct from *non-challenging!*)
- Take a minimum of notes for reference only - **or** explain why you need to take detailed notes, and negotiate what will happen with them (eg. participants can read them; they'll be destroyed after the session/process).
- Appear warm, caring and genuine about wanting to see an outcome which both people found acceptable - *win/win*).

- Don't pressure participants to discuss areas they are uncomfortable with, or explore emotions beyond a level essential to the situation (eg. a work setting) ... this is a planned process, not a *free for all!*
- Intervene quickly and clearly when it seemed a participant is breaching the *Deal*. (A serious breach may even involve interrupting the person.) This can be done in a warm, caring, curious, questioning way!

### Show your Willingness to *Stand in Their Shoes*

- Ask each party to look at it from the other's perspective.
- Ask each to summarise what the other said, without interpretation, and check for accuracy.
- Acknowledge how hard this is for everyone, and support them in trying to do it.

### *Stand Apart from the Interests of Either Party*

- Keep participants on the issue, and bring discussion *back on track* when necessary ... without keeping the pressure too high!
- Keep *distant* from issue of concern.
- State your existing biases, and *non-negotiables*, prior to the session.
- Try to **suspend your judgments** and remain neutral/unbiased. Appear to be impartial! (... knowing that it is ultimately impossible to **feel** impartial. Eventually you may **have** to draw conclusions, and they might be biased or influenced by your own experiences/values/issues/needs.)
- Let the parties know when you think you might be making a judgment, and where that might be *coming from*.
- Constantly check yourself for reactions ... indicating that you're making a judgment and try to influence the process/outcomes/content in a subtle/unacknowledged/hidden way.

### Affirm and Value both Parties

- Remind parties of previous good times (where appropriate).
- Don't trivialise reactions/feelings.
- Reinforce their decision to **try** to deal with the situation. State your admiration for their efforts.
- Reaffirm the value of each person, and treat parties with respect.

## Basic Skills *In Situ*

### Manage Time throughout the Process

- Give participants equitable space for reflection during the session, as needed.
- Remain conscious of the time, in a discrete way.
- Act promptly to fulfill any responsibilities you agree to ... and name any limitations there may be on these.
- Negotiate a fixed time for each session ... and an agreement to meet again if more time is needed, rather than just keeping going until someone *caves in* out of

exhaustion! (This would be a *win/lose* outcome which is unlikely to achieve a sustained commitment to change.)

- Allow the option of stopping the process to go away and think about specific issues raised/named, if needed/agreed.

### Demonstrate Your Willingness to Hear Both Perspectives

- Give equal time to speak/*air time* to each participant/party.
- Allow each to tell their story (for a fixed amount of time?) without interruption.
- Encourage each person to have their say, within the parameters of the *Deal* about how they treat each other in doing this.
- Allow each an *instant response* (without being *tied* to that position), and later, a more *thoughtful response*, to what the other party has said.
- Clarify with the other party as to how they saw the same situation (ie. ask everyone's interpretation).
- Invite the parties to articulate their feelings, where these are appropriate to the situation.
- Check the meaning to ensure that everyone is *talking about the same thing* (ie. that they have a common understanding of what was being said).

### De-Escalate Inappropriate Emotional Responses

- Get your body language *right* eg. hands open, low-pitched/calm voice
- Monitor your responses and do *deep breathing*, or ask for a break, to calm down if you need it. (The ultimate inefficiency is to save 10 minutes, but create a problem through your lack of care that takes 30 minutes to resolve!)
- Challenge people if they seem to be *dumping* emotionally on the each other. Encourage them to *keep it in perspective*
- Allow expression of negative feelings, but did not dwell on these.
- Focus on the conflict/issue, rather than talking about every emotional experience had between the parties. (This may include challenging the place of *ancient history* in the process.)
- Provide a means of expressing strong emotion with fewer restraints, outside the situation.

### Summarise and Paraphrase at a Content and Process Level

- Try to state the issue/problem for exploration in simple, clear terms.
- *Mirror back* key words each party uses.
- Paraphrase what each person has said, and invite them to try doing the same with each other's input.
- Summarise the overall issue from each point of view, and check the accuracy of your perceptions.
- Try restating ideas from each person, to see that everyone has a mutual understanding of the meaning.
- Summarise the process - what we've achieved so far, and what needs to happen next.

## Encourage a Climate of Active Listening

- Actively listen - show that you've *heard* through summarising and checking accuracy of your perceptions.
- Nod, etc. to show you are listening/interested.
- Encouraged each party to listen to what the other is saying.
- Invite them to show that through summarising, without interpretation.

## Advanced Skills *In Situ*

### Enable Analysis of the Situation

- Explore options/choices/possibilities for solution (or improvement) of the issue/conflict.
- Discuss non-verbal communication, particularly where verbal and non-verbal responses are incongruent.
- Check the reality of agreements reached, through discussion of measure and means of implementation.
- Periodically review the progress of yours discussions, and affirmed achievements to date.
- Help the parties see the affect of their conflict (eg. on their work performance).
- Encourage parties to explore the possible consequences of changing or not changing ... and (... this is a personal discipline on the mediator!!!) validate positives of not changing; negatives of changing
- State your assumptions, as though these were *perfectly ordinary* to have, then encourage the parties to do likewise about theirs.

### Extend the Parties' *Frame of Reference*

- Try reframing participant perceptions (eg. through analogy related to a different situation).
- Affirm their strengths (eg. through looking at other situations in their life where they had successfully dealt with conflict, and exploring how this was achieved).
- Distinguish *heart felt values*, from *reactions/behaviours* ... and don't encourage *fundamental* compromises. (... these are *doomed* to fail, and run the risk of generating a higher/deeper level of conflict!)
- Seek more information where this is pertinent to the issue ... don't be afraid to say you don't know (... this is excellent *modelling!*)
- Encouraged the parties to undertake *contextual analysis* ... rather than just individual reactions, or a focus on individualism (eg. look at possible agency/funding issues behind/contributing to the conflict).
- Name any stylistic differences between the parties - *task oriented* and *process oriented*, and encouraged discussion about the merits of both.
- Write down options as they emerge, and checked *correctness* of your wording.
- Offer other perspectives/views/interpretations **directly linked** with ideas being put.

## Assist in Identifying Common Ground and Differences

- Focus on naming/quantifying/highlighting common ground, before beginning to explore differences.
- Put the (few!) differences identified in the context of (vast!) common ground, without *blocking* valid exploration of differences.
- Encouraged realistic change patterns (eg. prioritise and deal with one difference at a time).

## Use Questioning Very Cautiously!

Be aware that asking questions means you are deciding which direction the discussion should take. Be aware of the subtle ways you might exercise power in the situation to direct the process.

## Outcomes

### Clarify Outcomes of the Process

- Negotiate a written agreement (confidential) about the types of outcomes achieved through the process. Ensure that any agreements for action/change are simple, singular, concrete and measurable.
- Provide points for further discussion that might not have been discussed before, and discuss ideas for processing these (if they remain necessary to pursue).

### Ensure Monitoring/Follow-up Mechanisms are in Place

- Arrange a future time to check progress, and review outcomes if required.
- Set up means for making an earlier arrangement, if necessary.
- Establish *built-in* mechanisms for the parties to check their own progress.
- Establish clear means for parties to distinguish the *size/importance* of an issue for them, if new conflicts emerge.
- Negotiate an ongoing, mutually-acceptable *3rd party* arrangement within their agency, with clear parameters ... in case they needed further support.