

AHPP Mediation Philosophy

Bee Springwood

For the last eighteen months AHPP has been developing a structured system of mediation as a means of dealing with complaints. This began with a practitioner's workshop to explore the process, and a statement of philosophy, which I presented there. What follows is that statement, together with my original motivations for this approach, which has been echoed by other Ethics committee members. I have taken on the position of chair of the ethics committee specifically because this process connects me back to my roots in humanistic values in the late seventies when I was involved quite a bit with exploring co-operative dynamics in small group and community conflict resolution.

As a humanistic organisation we are committed to the notion that conflict can be resolved humanistically, and that mediation is the best process for the inclusion of facts, thoughts, feelings, bodily presence and their witnessing to be included in conflict resolution.

While written procedures and codes are important signposts for us in coping with conflict, they cannot in themselves address the emotional and spiritual needs, which have to be faced if either party is to feel fully acknowledged and arrive at sense of resolution.

What is it we need to feel resolved? When it comes to a dispute between therapist and client each party inevitably has a different view. As a therapist I may feel desperate to restore or retain my good name at the

expense of any serious enquiry into my behaviour. As a client, in my angry, vengeful state I may want to do some permanent damage; e.g. put the therapist out of work, anything but acknowledge the value of what may be occurring. Some sense of natural justice for one party, or even both, may occur in the eventual outcome of a formal complaint, but it is likely to be despite rather than because of the formality: *vis* countless libel cases.

The main problem that seems to occur for complainants in, for example, medical complaints, is the failure to feel heard and accepted. Fear of legal consequences reduces caring professionals to the caricature of dodgy car salesmen mincing their words to avoid the... obvious. I am reminded of how many people have told me that in a car accident one should never to get out and say sorry,

for fear of admitting liability? I'm glad I have never had to test this out in practice. How much more damaging it is to find that someone who did own the responsibility for invading our body boundary, in an operation say, is now shuffling around the point, the point being that surely everyone regrets loss or damage of which they have been part? How much more subtle, invisibly painful this is when a person feels their psyche is the damaged part.

It is also true for therapists that we might have our practice destroyed by an ex- client acting out a negative transference. Still tied to our confidentiality, we do not always have the means to get the record straight within our wider therapeutic community. Some feel that goes with the territory: it's a risk we take by being in the public domain, like film stars. How much worse when our own professional organisation seems to be ganging up on us; threatening us with suspensions, expulsions, disclaimers for anyone to read without the background information. A judgement, which looks plain and coherent in a few lines of a professional publication, may hide a wealth of hurt and misunderstanding.

But I personally wonder if the organisation per se has a more or less conscious interest in elaborating such procedures as a defence against anxiety, and a means of self-aggrandisement? We want to look squeaky clean, but we are all only human, and sometimes make painful or clumsy mistakes.

Being humanistic means owning that we are not perfect. Ideally a complaints procedure, whilst addressing the injury, should also encourage our clients to accept a worldview of true acceptance of ourselves with all our humanly frail



faults whilst still striving for excellence in practice.

The therapist feels vulnerable for many more reasons than fear of legal judgement. On a day to day level, we have to be careful not to hide ourselves in supervision, not to fear being found out or found wanting. Mediation gives the person complained against a much better chance for support. After all, what are we paying good money to our organisations for if not to support us? When one's practise is being examined and criticised, one needs to be as free as in supervision to examine all the issues, to face criticism honestly and to trust we will be supported in challenging unfair or untrue allegations.

As an organisation of and for practitioners, we fully support the hearing of all sides of a conflict, to allow room for each party to acknowledge their mistakes, neglects, provocation, unreasonable expectations etc. without resorting to a culture of blame and scapegoating.

The need to address the feelings of regret, loss, anger, disappointment is most readily met by mediation. It is the most direct means for complainant to challenge bad practice and gain redress, and it is the best known form of de-escalating conflict.

WHAT TO DO.... A MAP FOR THE MEDIATION PROCESS

When and how does mediation constitute a suitable course of action?

Provided the grounds for complaint do not appear to be such a serious breach of conduct that a physical meeting would be likely to intimidate the complainant or the member, then mediation in the form of face to face resolution is actively encouraged by the facilitator appointed to the complainant. A too serious breach would be sexual abuse, violence, financial intimidation.

Who takes part in this process?

As a voluntary organisation, we rely on our membership to come forward with their services to run this process. We already do this for facilitation and co-ordination roles. We are discussing specific mediation training for this year, but most trained therapists are well acquainted with some mediation skills without labelling them as such. Listening, protecting space for parties to be heard, feeding back responses in a manner acceptable to both parties, and framing suggestions in a non-confrontational way; e.g. 'It would be better if...', are all familiar to anyone who had done groupwork, couple work etc.

The difference comes when we bear in mind that this is brief work with a focus on outcomes. It is perhaps a single session. Therefore, the mediator needs to be more confrontational about options, decision making etc, than they would be in longer term work. without necessarily being directive. What follows is the common sense version we have run.

Steps in the process

- 1.**
The committee appoints a co-ordinator, from within the ethics committee, who appoints a facilitator for the complainant.
- 2.**
Active exploration by the facilitator with the complainant, on
 - a)** the nature of the complaint, which, if any, codes broken etc.;
 - b)** the likely outcome of a formal complaint;
 - c)** the actual wishes of the complainant for redress in any form; e.g. an apology, and if so, in what form?At this point there is discussion about the likelihood of a formal procedure meeting the humanistic needs of the complainant, compared to the process of mediation.
- 3.**
Facilitator informs co-ordinator of an agreement to the process. The co-ordinator only then informs the 'complainee' about the complaint and of complainant's wish to go to mediation, and also appoints their facilitator.
This facilitator explores the case to answer and possibilities for the AHPP member in mediation. The therapist is not free to refuse mediation except on the grounds stated above.
- 4.**
The co-ordinator then appoints a mediator as swiftly as possible from our membership, based on their non-involvement ;e.g. through training or peer group connections, and convenient geography.
- 5.**
The mediator receives from the co-ordinator all the relevant information about the dispute. The mediator sets up a time to meet directly with facilitators and the complaint parties.

At this stage mediator may also ask the facilitators for clarification of any issues. The place is that most convenient to all concerned, but neutral, e.g. not the complainee's rooms or the complainant's house. There are three dates maximum to be suggested before expecting agreement. This is because both the mediator and co-ordinator need to be aware of manipulative behaviour at this stage, and to get a clear demonstration of willingness to work for some resolution, however remote it may seem.

6.

We would expect to resolve most disputes with one or, at the most, two face to face meetings of the parties involved with their respective facilitators and the mediator. After this, it is likely to need formal adjudication.

If face to face contact is not feasible as a first step, then an exchange of letters as a preliminary may be considered; e.g. to clarify the nature of the complaint, the limits or specifics. This will not generally be acceptable as a substitute for attendance at a meeting. Our current suggested Procedure at the meeting:

1.

The mediator gives time to be heard to the complainant, to the complainee, and allows comments of clarification and support from the facilitators, without interruption or contradiction. As a humanistic organisation, we anticipate thoughts, feelings, bodily responses, spiritual outlook to be included with equal respect, and for all parties to be treated with respect and integrity.

2.

Time for response to this round is then given in a structured way.

3.

Time for both the complainant and the complainee to clarify and put forward their wishes; e.g. an apology, and in what form, financial restitution, acknowledgement of an irresolvable difference of expectation/ opinion/ agreement on the nature of the events etc..

4.

Mediator gets in writing, or in some other clear form, the nature of the suggested restitution and action for either or both parties. This is agreed together with a time scale / date for completion. Copies to be sent to the parties via facilitators as soon as possible.

5.

If no agreement can be reached at this stage, for reasons the mediator and facilitators deem reasonable, then a future meeting date to be arranged, with the appropriate action in between, if any, to be agreed instead.

6.

All parties to complete their future agreed actions within the time scale agreed. Co-ordinator to be informed of this, and to pursue if defaults. We are not sure, yet, how this might happen, having had few live examples to test.

7.

In the event of mediation failing to provide a solution, the facilitator will then go back to consider with the complainant the procedure for a formal complaint. This may lead to a further mediation meeting, or a formal complaint itself. Again, we have no live cases to test as yet.

Bee Springwood is an art therapist and bodywork therapist with a special interest in group work and the energetic basis of creativity. She has been working with the dynamics of women's, creative, and professional groups for more than twenty years. She is chair of AHPP ethics committee, and has a private practice in Norfolk.