

AHPP sponsored workshop 21-22 October 2000

Handling Counselling Complaints Through Mediation

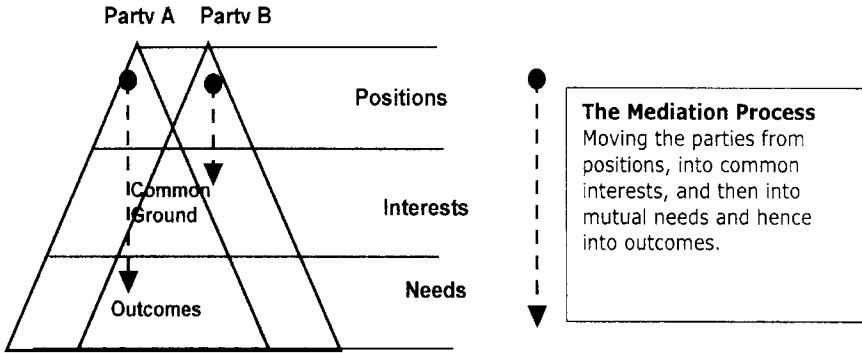
Workshop report and a personal view by Tony Morris

Tony Morris is a counsellor in private practice and member of the AHPP Ethics Committee, but writes here in a personal capacity.

This excellent workshop was devised by Bee Springwood, chair of the AHPP Ethics Committee, as AHPP uses mediation whenever possible as a humanistic form of dispute resolution, as described by Bee in S&S, April-May 2000. The workshop was given by Ruth Smallcombe and Everald Phillips, partners at The Resolution Partnership. Both are counsellors, very experienced mediators and trainers and Ruth particularly sits on several counselling committees. The first day was largely devoted to mediation models and skills, day two focussed particularly on the role of mediation in handling counselling complaints and involved challenging and exciting role-play.

Although the workshop was primarily intended for those who might administer complaints in counselling agencies, trainings and professional associations, it proved relevant to counsellors whether or not directly involved in mediation or complaints, as it focussed on creative conflict resolution. Particularly valuable was the concept and techniques for moving parties in dispute from possibly entrenched Positions (wants), into Interests (areas of common ground) and then into Needs (what was really needed as an outcome). As with

couple counselling, some issues tend to be re-visited, and difficulties arise when the parties move at different rates. Hence the mediator focuses on the process rather than outcome, it's for the parties to find an outcome. Without slavish even-handedness, the mediator respects each party's current stance, clarifying and enabling sharing and openness, the venting of feelings but without getting into therapy. If the parties are stuck, then *they* are stuck, not the mediator. Hence mediation presents different perspectives and applications for counselling skills.



We tabulated some key differences and similarities between mediation and therapy, while recognising their considerable overlap:

Key aspect	Mediation		Therapy	
Focus on	Outcome	B L U R R E D	Current situation	
Time scale	Forward looking		Present and backward looking	
Time span	Only immediate history		Past history	
Contract	Brief		Generally medium to long-term	
Cost	Generally more expensive per session, but 2-3 sessions		Generally less expensive per session, but more sessions	
Safety	Provides a safe place		Provides a safe place	
Feelings	Expressed to clear the air and expose issues		B O U N D	Expressed and explored to generate healing
Balance	Impartial and even handed			Less impartial, expressing more concern
Style	Directive with regard to process. Role bound			Open ended style and role
Process	Structured		A R Y	Loose
Supervision	Used and essential	Used and essential		

The first role-play I engaged in illustrates the mediation process as I experienced it. My account may seem straight forward, of negotiating towards a reasonably mutually satisfying outcome; but as you read it, speculate on the thoughts and feelings of the two parties and of the mediator.

The scenario was that client Julie first came to counsellor James to recover from the break up of a relationship.

After several sessions, she felt better and wished to end, partly because of the cost of the sessions. But at that point James said she should instead come twice a week for an indefinite period, in that Julie had many more, and deeper, issues that she needed to work on, and this was also the view of his supervisor. Faced with James's 'demand' (as she saw it), Julie had complained to his practitioners association and both had come to

resolve the situation with a mediator. By asking each to state their position, that Julie wanted to stop, while James wanted her to come twice-weekly, some common interests evolved. Julie wanted to have more control in her life, not be subject to others demands, and was exercising control by asserting her wish to leave. Yet James also wanted Julie to have more control, self-esteem and assertiveness, and saw this to be best achieved by more therapy. Their wants were similar, but their ways of achieving it were polarised. Common ground came in both parties recognising that Julie had already come a long way; her actually taking her complaint to mediation was clear evidence of this. This common ground led to a more co-operative dialogue and understanding. Julie felt that James

I had to resist my urge to 'therapise' Julie during the mediation itself and also refrain from seeking a secret agenda within James

and his unseen shadowy supervisor 'were ganging up on me'. This led to James explaining what supervision was all about and expressed his care and concern for Julie. She, in her turn, heard his concern but also expressed her need to be heard and have more control within the therapy itself. She

also had felt that James mainly only wanted her money and, under some persuasion from the mediator, James stated a minimum fee he would come down to. Similarly, Julie's bottom line was that she'd only continue therapy on a once a week basis. The final agreement was that weekly therapy would continue, James would lower his fee, and every four weeks they would review continuing.

Being a counsellor - Help and/or hindrance when acting as a mediator?

I'd now like to share my inner experiences of being the mediator for part of the above role-play. I was particularly struck that, while we trained in mediation skills and theory, and during role-play, how also being a counsellor placed me in a paradoxical position, that my counselling perspectives were both help and hindrance.

As the mediator but with an internal counsellor, it was easy to pathologise Julie as having low self-esteem and definitely in need of more therapy, but also to pathologise James into the greedy controlling counsellor who didn't or wouldn't recognise Julie's right to say 'enough - at least for now'. I had to resist my urge to 'therapise' Julie during the mediation itself and also refrain from seeking a secret agenda within James. Despite trying to remain totally impartial, I wonder if I and James subtly ganged up on Julie, just as she felt James and his supervisor had done? Did we really get to a win-win situation, or just a half win - half win outcome, a mutually unsatisfactory compromise? Both Julie and James, in role and in feedback

afterwards, expressed satisfaction with the outcome, but I now wonder if, once Julie was back in James's therapy room, could she sustain the stance she'd taken in the mediation session, of having some control over James and her counselling? Would Julie be helped by having an internalised mediator, maybe as a counter to James' shadowy supervisor? For Julie and James future meetings, had the mediation turned the counselling room into a courtroom, with four protagonists? James would continue to see his supervisor, but Julie had no further access to 'her' mediator, for unlike counselling sessions, where issues can be revisited, the mediation process was closed. As a mediator, I should be satisfied that we achieved a practical outcome, with needs stated and largely met, but as a counsellor, would it have been therapeutically better for Julie to have finished with James, to have won, and be free to undertake more therapy with someone else when it felt right for her. Thus one can see how being a counsellor might muddy one's thinking and distort one's practice when acting as a mediator. That fairly clear-cut issues (continue counselling or not, at what frequency and fee) turn into ethical dilemmas!

Incidentally, the shadowy presence of mediator and supervisor in Julie's subsequent sessions reminded me that, as therapists, we often say that there isn't just the client in the room, but also a crowd of partners, parents, siblings, etc. Perhaps we forget that our supervisor, trainers, co-supervisees and trainees, etc. hover there behind us, the therapist.

In the workshop we discussed the unspoken, if not hidden, agendas the parties might be sitting on and how to make them less covert. Channel 4

broadcast a few weeks before the workshop a series called Breakup, on mediating divorce settlements. (Ruth Smallacombe was adviser to the series). Here the parties spoke individually to camera, often revealing thoughts, feelings and intentions very different from those voiced in the mediation sessions itself. This reminded me that counsellors and clients also talk about each other behind the others back, we to our supervisor and clients to friends and partners. Unless one is a totally in the moment therapist, do we sanitise our secret agenda by calling it a therapeutic plan? I guess most

... one can see how being a counsellor might muddy one's thinking and distort one's practice when acting as a mediator. That fairly clear-cut issues ... turn into ethical dilemmas!

counsellors would be unresponsive or evasive (in a therapeutic sense, of course) to a client's question 'What have you been saying about me to your supervisor?'. So, in all fairness, if that's the right word, should we refrain from wondering, or probing, what the client says outside about the therapy and us. Or, in fairness to our client, should we take them, really and physically, to our supervisor? All these insights, as I write, are reinforcing the value of that difficult to follow mantra: '*Stay in the room. Stay in the room. Stay in the room.*'

Application to couple counselling and polarity work

Many of the approaches and techniques we covered had, obviously, direct relevance to couple counselling, particularly for short-term contracts. Yet here again I see a danger, here reversed, that mediation skills could interfere with the therapy, in that focus could shift too much to finding a solution or fix to the couples issues, rather than staying with the relationship-as-client, enabling the couple to find their own outcome.

I see less of a problem in using mediation skills in polarity work with an individual client, such as resolving a decision or healing a split. Two-chair gestalt work, the client expressing polarities by posture, tone, gesture, art work, etc. is very much moving from positions into interests and needs, as in mediation. In fact, here I found that my experience in using polarities enhanced my mediation training.

Playing the abuser, a valuable insight

I would like to take the risk of relating my experiences in the second role-play, because it showed me how easily abusers can justify their actions to themselves. This could be a help (or a hindrance) when counselling an abuser, or handling a complaint or an ethical issue.

Here the scenario was that Ash teaches on the second year of a counselling course in a small training establishment, and has developed a sexual relationship with one of his female students Hazel, one of the most competent trainees. The relationship is evident to all the students but has not been

acknowledged by Ash or Hazel. Exams are approaching, there is a lot of tension, and one of the other students, Birch, who is struggling with the course, has complained to the training establishment that Hazel is being given preferential treatment by Ash, and Birch particularly wants Ash to publicly acknowledge the relationship.

Unless one is a totally in the moment therapist, do we sanitise our secret agenda by calling it a therapeutic plan?

I played Ash and although tacitly acknowledging that Hazel and I 'had a relationship' was adamant that I would not come clean publicly in the training group. Our mediator skilfully revealed Birch and my interests beneath our stated positions. That Birch was concerned that he wasn't doing well and in my being wrapped up with Hazel I wouldn't give him enough attention and also that I discussed the group with her. I assured Birch he was doing ok, an easy lie to get him off my back (more abuse) and 'When we're together Hazel have other things to do than talk about the group', another hard to challenge lie. The mediator put their finger on my interest, which was really a covert agenda, that I saw the illicit relationship as 'material for the group,

they're trainees counsellors, let them risk belling the cat and confront me'. This defence is manipulative, avoidant, difficult to refute, easy to maintain and defend, plausible and makes the other party be either defensive or persecutory. It was very much one of denial of the truth, of ethical duty and, of course, would further victimised Hazel if the group did confront me.

The key point for me is how easy it was to play Ash and his abusive manipulative behaviour.

Indeed, the primary abuse of Hazel was that Ash didn't give a damn about her, he was using her rather than loving her. Later, out of role, we speculated that Birch might have been jealous of Hazel, or of the attention she got, or attracted to her himself. In any event, the needs of Hazel weren't even mentioned, she was just a casualty. The mediation outcome was that Birch was (falsely) reassured as to getting fair attention from Ash, and that although Ash wouldn't openly disclose, he was willing to be confronted, though how this could be really be done by the group was skated over. We took the training establishment to be very small, a private college, with no published ethical guidelines on staff-student relationships, hopefully an unrealistic scenario but highlighting the need for guidelines in the current mushrooming of counselling courses.

The key point for me is how easy it was to play Ash and his abusive manipulative

behaviour. We all, of course, have our shadow side, so it was something of a comfort afterwards to hear from a couple of other participants who played Ash that it wasn't nice to do, but not difficult. This give another slant on 'entering the client's world' and, for me, makes a connection with the need for therapists to have been in therapy while training, not just to be a better therapist, but to address the shadow side of wanting to therapise others. Another aspect this role-play illustrated that there are often peripheral or civilian casualties in mediation, here it's Hazel, in a divorce it's typically the children, and in counselling it's often the client's long standing relationships with partners, parents, siblings, etc. Again I see that crowd surrounding our client in the counselling room, we are not responsible for or to them, but we are often instrumental in changing their lives as well as our client's.

So there are layers and networks of issues, dilemmas and paradoxes, and I thought this was going to be a simple, straightforward, practical, hands-on workshop!

Further reading

Bee Springwood, AHPP Mediation Philosophy, *Self & Society*, Vol 28, No 1, April-May 2000.

J Beer and E Stief, *The Mediators Handbook*, ISBN 00-86571-359-6

Edward de Bono, *Conflicts: A Better Way to Resolve Them*, Penguin

R Fisher and W I Usy, *Getting to Yes*, Hutchinson

A Howel and C Godefroy, *How to Cope with Difficult People*, Sheldon Press