University of Strathclyde Mediation clinic

July 2023

Issue 4

Mediation Matters!

The quarterly newsletter of the
University of Strathclyde Mediation Clinic

Inside this issue

Editor: Patrick Scott **Assistant Editor: Adrienne Watson**

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Editorial

This is the fourth quarterly issue of ***Mediation Matters!***. Our next issue will mark our first anniversary. If there is anyone who would like to contribute to that issue, please let us know.

In this issue, we have the regular contributions ***From the Director***, ***From the Chair*** and ***Clinic News***. Charlie Irvine invites members to draft their 'mediation system'. Hopefully, our members will take up the challenge and provide Charlie with some summer reading. Andrew Boyd, Co-Chair of the Board, provides some updates on their activities. Pauline McKay, in ***Clinic News***, covers the April *CMC Academic Forum*, where the topic of mediation clinics was discussed. Pauline also discusses the *International Mediation Clinic Network*, which was set up by the University of Strathclyde Mediation Clinic.

This quarter we have to share the very sad news of the passing of ***Ailie Barclay***. Carol Thompson has penned a very fitting obituary to her, and we have sourced a very happy photo of Ailie at her graduation, as well as one of her with her beloved dog.

Alastair Sharp provides some feedback from the ***Fair Justice System for Scotland Equalities Workshop***, and the possible future co-operation of Fair Justice System for Scotland with the Clinic.

My column, ***Patrick's Ponderings***, explores power imbalance and the challenges that it can create. Adrienne Watson, our assistant editor, covers the June ***CMC Academic Forum*** and ***Aunt Minerva*** answers some questions relating to bees and beekeeping.

An interesting case study is discussed by Craig Cathcart, entitled ***The Shape of Mediation: monoliths, wheels within wheels, and squaring circles***, dealing with issues between two people on the same side in a mediation.

Anna Howard's presentation to our *Third UK Mediation Clinic Conference* in March, which was not available for publication in the previous issue, is included. These are her speaking notes from the workshop which she delivered, ***Working with Lawyers in Mediation***. She explores four themes - contribution, control, complexity and closure.

Finally, we have two book reviews. Leon Watson reviews ***The War for Kindness*** by Jamil Zaki, a study in building empathy in a fractured world. In keeping with the theme of a troubled world, Gordon McKinley reviews William Ury's work, ***Getting to Peace***. Although it was first published some years ago, it is still as relevant today as it was then.

Adrienne and I extend our thanks to all those who have contributed to this newsletter. Without the content, there would be nothing to read. If anyone would like to contribute an article, a book review, a case study or any other relevant contribution, please let us have them. The next newsletter will be published at the end of October, and we would need your contribution by the end of September, or early in October. If you are interested in contributing, please contact me at p.scott@strath.ac.uk.

Patrick Scott
Editor

From the Director ……

As the summer trundles along so does the Mediation Clinic, with new cases coming in all the time. Reading people's reflections on their work I'm struck by the range of situations we deal with: building problems, disputed bills, purchases gone wrong. But I'm also struck by the range of mediators. We all have different styles - not formal models but individual moves and responses built up by trial and error over dozens, eventually hundreds, of cases.

These 'real mediation systems' (see below) are noticeably distinct from each other. Mediators naturally vary and there seems to be room for all sorts: chatty, quiet, thoughtful, enthusiastic, cautious, even bossy. One simple takeaway is that successful mediators eventually land on an approach that goes with the grain of their personality. We know that clients value authenticity so it's no surprise that this confirms the old adage: be yourself.

My friend John Lande recently asked me to think about my own real mediation system. He challenged a few of us involved in running mediation clinics to describe what actually happens when we mediate. My practice is quite broad so I decided to focus on a single setting, complaints against lawyers. These mediations bear some resemblance to the cases we receive under Simple Procedure, being relatively brief, for fairly modest sums and often involving parties with different levels of power and authority. The result is called What Usually Happens in My Mediations. John has written a longer piece with links to the other nine mediation systems.

And here's a challenge. During the long summer days, why not have a go at writing out your own real mediation system? You'll find the original template in this blog. It would be great to start gathering a collection of them. They would illustrate the diversity of practice within the Clinic and act as a tonic to the assumption that there is one 'right' way of mediating. I'm sure anyone who writes one will also benefit from the exercise, as it forces us to name what we do and think about why we do it.

A funny thing happened while I was writing mine. The more I drilled down into what actually happens, the more there was to say. It turns out mediation is a highly detailed, context-driven activity, varying from case to case and moment to moment. On a different day, with different people, I might do something different, and that too might succeed or fail. Yet, at the same time, the act of attempting to pin it down flagged up patterns across cases, helping me to stand back and see the bigger picture.

So, to those taking up the challenge, please send your real mediation system to me at charlie.irvine@strath.ac.uk. Please don't worry about length – brief is good. And before I do anything with them I'll come back and ask. I look forward to some summer reading!

Charlie Irvine[1]
Director, Mediation Clinic

[1] ***Charlie Irvine is the Course Leader on the University of Strathclyde's MSc/LLM in Mediation and Conflict Resolution and Director of Strathclyde Mediation Clinic. He is an experienced mediator specialising in organisational and workplace disputes. Charlie's academic work focuses on mediation in the justice system, and he is currently completing PhD research into mediation participants and their reasons for settling.***

From the Chair .....

It has been a sad time recently, as members of the Board have attended the funeral of our friend and colleague, Ailie Barclay. More will be said about Ailie elsewhere in this newsletter, but the Board is grateful for the significant contribution that Ailie has made to the Clinic. As a former Chair of the Board, Ailie helped to make the Clinic what it is today and was always there to give support and personal encouragement to the Clinic members.

The work of the Board continues, but with no meeting in July, that gives the Board members a well-earned break. Apart from our monthly Board meetings, we have three sub-groups that support the work of the Board. The Funding sub-group has been busy exploring how the Clinic can be more sustainable, the Standards Committee has been working hard to progress how the Clinic can continue to maintain the highest standards of mediation and professionalism, and the Documents Review Group is developing updated documents which are more relevant to current mediation practice. We are also fortunate to see our Strategy being progressed and are grateful for those who have made this happen. The Board is grateful for the work that our sub-groups and committees carry out for the benefit of the Clinic.

With two further Board meetings scheduled, it will soon be time for our AGM. There will be more information circulated nearer the time, but if you feel that you could contribute to the work of the Clinic then please consider joining the Board.

Finally, your Board hopes that you manage some downtime over the summer and find the time to relax with family and friends.

Andrew Boyd[1]
Co-Chair

[1] ***Andrew Boyd completed the MSc in Mediation and Conflict Resolution at Strathclyde University in 2013. Andrew currently works for the Scottish Centre for Conflict Resolution as their Mediation and Conflict Resolution Advisor. Andrew is also on the mediation panel of the Scottish Legal Complaints Commission and is a consultant mediator with Common Ground Mediation. Andrew has been volunteering with Strathclyde Mediation Clinic since its inception.***

Clinic News

The quarterly newsletter seems to have come around so quickly. We have been busy in the Clinic and below is a taster of what we have been doing.

I attended the Civil Mediation Council (CMC) Academic Forum meeting on 20 April as the topic was Mediation Clinics. The CMC is the national body for mediation in England and Wales and it is a charity with the objective to "*be a neutral and independent body set up for the benefit of the public to promote the resolution of conflicts and disputes by encouraging the use of mediation and other dispute resolution*". The Higher Education (HE) sector is in a unique position to influence the narrative around conflict with the next generation as well as through research initiatives. The CMC provides a platform to support work in the HE sector. We heard speakers from the University of Central Lancashire, University of Sussex and Canterbury Christ Church University, who operate some form of Mediation Clinic. They discussed the challenges, how their Clinics worked, the links to teaching and learning and they encouraged research.

This leads on to our first meeting of the International Mediation Clinic Network. The Network has been set up by our Mediation Clinic to provide encouragement, support and learning for Mediation Clinics or ADR Centres. Our vision is to create a space where Academic Heads or Leads of Centres can come together to share best practice, collaborate, and promote Mediation Clinics' work across the globe. It is intended that Zoom meetings will be 1 hour online with 2 speakers and time for discussion. Consideration will be given to different time zones, and it is anticipated that meetings will be held quarterly. Our first event saw us joined online by participants from Dispute Resolution Centres and Universities in the UK, Ireland, Nigeria, Czech Republic, India, USA, New Zealand, Italy and Poland. The purpose of the first meeting was to set out our aims. Our next meeting is scheduled for Wednesday 30th August at 4pm BST and we are delighted to have speaker Toby Treem Guerin, Associate Director, Center for Dispute Resolution, University of Maryland School of Law, who will speak about the structure of her Centre. I will also give a brief overview of our Clinic in the second part of the meeting. Zoom details will be distributed to Network members.

At the end of May, we said au revoir to Elise Marshall who had been our student assistant for the past year. Elise has been fun to work with and has been invaluable to the functioning of the Clinic. She achieved her LLB in Scots Law with Distinction and is looking forward to starting the Diploma in September before commencing her traineeship with BTO LLP the following year. We all wish her the best of everything.

We were so saddened to learn of the passing of our good friend and colleague Ailie Barclay in June. Ailie has been part of the Clinic through the Master's course and mediated with many of us over the years. She will be remembered warmly both personally and professionally.

I had an enjoyable trip by train through to Edinburgh and attended the Fair Justice System for Scotland (FJSS) equalities event at the start of June. Siobhian Brown MSP, Minister for Victims and Community Safety, was a keynote speaker. Participating organisations included the Scottish Government, Police Scotland, various universities and law firms, as well as representatives from grass roots organisations. The FJSS mission is "*for a fair, just, tolerant and inclusive Scotland where opportunities are defined by need and the diversity of talent available*". Alastair Sharp, our Co-Chair of the Mediation Clinic, has reviewed the workshop in this issue. We have made links with the CEO Silence Chihuri and hope to collaborate on some workshops for mediators in the coming year.

At our recent, successful CPD event with Edinburgh Sheriff Court in June, we heard from Elise Schwarz, Mediator, on *What if a case does not settle*, and then from our Director, Charlie Irvine, on *Mediation rhetoric*. This was a hybrid event and recordings of the presentations can be accessed via our YouTube account.

We have some news on our Housing Mediation Project. SafeDeposits Scotland Charitable Trust has extended our agreement to use remaining funds for the project (about £4000) for a further 6 months. This will be used to pay our mediators for any housing cases (stipulations are that one of the parties must be a private rented tenant). Our initial 6-month period from January 2023 has not yielded any cases, which seems to be a similar story across the sector. However, we have made new links with the University of

Strathclyde Student Association Advice Hub who support students on matters related to their studies, housing, funding and finance. They are happy to refer any cases that may be suitable for mediation, and we will monitor this over the coming months. We will continue to publicise our service via SafeDeposits, Scottish Association of Landlords and Scottish Mediation among others. Please do refer any cases you think could be suitable and we will be happy to have a chat.

We are delighted to announce that we are finalists again in the Community Contribution category of the Scottish Legal Awards. We hope to replicate our Winner and Highly Commended achievements again this year. This means a sparkly evening in Edinburgh on Friday, the 29th of September 2023 from 6:30pm at EICC. Wish us luck!

You can now keep up to date with our Board meeting minutes which can be accessed on SharePoint. Please note this is available to our Mediation Clinic members only.

Finally, in a fitting tribute to Ailie, who contributed so much to the Clinic, we will introduce an annual award for our hard-working student assistants. The assistant who has participated in the most mediations throughout the year (Oct-Sept) will receive the Ailie Barclay Award. This will be a letter of recognition and a £30 book token. This will be awarded at our AGM in October (Tuesday 10 October tbc) and will be open to all assistants who are currently registered students.

Enjoy what's left of the Summer!

Pauline McKay[1]
Co-ordinator, Mediation Clinic

[1] ***Pauline McKay completed the PG Certificate in Mediation and Conflict Resolution course at the University of Strathclyde in 2020. She is currently an Accredited Mediator with Scottish Mediation, the Clinic Co-ordinator of Strathclyde Mediation Clinic and volunteers as a lead mediator with the Clinic and Lothian and Borders Mediation Service.***

Obituary - Ailie Barclay

By Carol Thompson[1]

It was with great sadness that we learned of the recent death of Ailie Barclay, after a short illness. Ailie was a significant part of the Mediation Clinic family for many years.

Before she became a mediator, Ailie spent a major part of her working life as a family law solicitor, helping clients navigate their way through the adversarial court system. She also prepared reports for the Sheriff Court in family cases and was a safeguarder in the Children's Hearings System, representing and advocating for children's best interests.

Ailie felt the court system often emphasised the differences between parties, rather than the common ground. Being drawn to mediation as a way of helping to resolve people's disputes, she decided to sign up for the Master's in Mediation and Conflict Resolution in 2014. Then, after gaining her MSc (with distinction) in 2016, Ailie became a registered mediator with Scottish Mediation and a lead mediator with the Mediation Clinic.

In the early days of the Clinic, Ailie was frequently at Glasgow Sheriff Court on a Friday afternoon, as part of a group of students and lead mediators at the Small Claims Court (as it was then called). Information was provided to those attending court about mediation and the Clinic, and mediations might or might not go ahead depending on whether any cases were directed our way by the Sheriff. It quickly became a welcome routine to head off afterwards for coffee, cake, chat and sharing of the ups and downs of the situations that were experienced.

Ailie embraced mediation as a way of providing people with an opportunity to resolve their conflict, with a strong view that people themselves were the experts in their own lives, capable of resolving their own disputes in the way that worked best for them. She soon became one of the busiest mediators with the Clinic and also developed her work as a freelance mediator. In addition, she tutored undergraduate mediation students, sharing her knowledge, experience and enthusiasm with them.

Her unstinting commitment to the Clinic continued and she became Chair of the Board in 2017/18. It was during this time that Ailie contributed a huge amount of time and work towards the Clinic being nominated for the Scottish Legal Awards, and subsequently winning the award in the Community Contribution category in 2020 and 2021.

Ailie was very people focused – she was considerate, thoughtful and an excellent listener – all qualities for being a great mediator.

When she managed to take some time off from her busy schedule, Ailie enjoyed meeting up with friends, taking long walks with her much loved dog, Findlay, and going to Northumberland on holiday – a part of the country which she loved.

Ailie was a special person and her passing leaves a huge gap in our lives. She will be missed enormously by all her friends and colleagues at the Clinic and in the wider mediation world.

[1] ***Carol Thompson completed an LLM in Mediation and Conflict Resolution at Strathclyde University in 2016. Carol recently retired, having spent most of her working life as a Children's Reporter in the children's hearing system and latterly as a legal adviser in the Scottish Courts and Tribunals Service. Carol is currently a lay examiner for the Royal College of Physicians and Surgeons trainee surgeons' examinations. Carol has been volunteering with Strathclyde Mediation Clinic since 2015.***

Report back on the Fair Justice System for Scotland Equalities Workshop Held at The Signet Library, Thursday 8th June

By Alastair Sharp[1]

Fair Justice System for Scotland (FJSS) Group SCIO fjssgroup.org describes itself as a grassroots led organisation based in West Lothian that works towards increasing racial diversity and inclusion in the Scottish justice system. It works closely with key stakeholders in the system such as the Scottish Government, The Faculty of Advocates, the Judicial Institute for Scotland, Police Scotland, the Scottish Parliament, HM Inspectorate of Prisons, HM Inspectorate of Constabulary and the Scottish Courts and Tribunal Services, as well as universities and law firms, and is actively pursuing other partnerships.

FJSS was founded by Silence Chihuri who is its CEO, and the Chairman of the group is Professor Sir Geoff Palmer OBE. They hold regular meetings and workshops to discuss key policy issues that affect justice delivery in Scotland, including a monthly Justice Forum that is convened where key issues to do with the justice system are discussed. As they say in their informative introduction to the workshop:

> "*Social justice, racial diversity and the inclusion of marginalised communities make the focus of our programmes to engage our key policy and decision-making processes.*"

The Equalities Workshop was launched in 2019 as the Scottish Justice Conference and has evolved over the last four years to become the flagship annual calendar event. The 2023 Workshop was held on 8th June in the magnificent setting of the Signet Library in Parliament Square which was packed for the event and was supported by some 36 of the leading institutions in Scotland including Strathclyde Mediation Clinic.

I, as Co-Chair, together with Pauline our Co-ordinator attended on behalf of the Clinic and are pleased to be able to report that it was an illuminating and exciting event, packed with an array of glittering speakers, with the only possible very minor criticism being that so much was included in the programme that there was sometimes limited time for questions from the floor.

The Keynote Speaker was Siobhian Brown MSP Minister for Victims and Community Safety, who gave a stirring and informative address supporting the aims and progress of FJSS. There then followed some seven speakers who again gave enthusiastic speeches whose contents perhaps would overburden this article if set out in full, save to say they were all excellent and very well received by the audience. They were Professor Sir Geoff Palmer OBE, ACC Gary Richie from Police Scotland, Rob Marrs from the Law Society of Scotland, Martin Glover HR Manager of Morton Fraser LLP, Usman Tariq from Ampersand Advocates, Arun Smith from Strathclyde University Law Clinic and Lindsay Jack from the University of Edinburgh Law School. Each highlighted their respective organisation's approach to, and developments in, diversity, and it is clear that much progress has been and is being made although there is still more to do on this important journey.

It will be recalled that Silence was invited to attend a recent meeting of the Strathclyde Mediation Clinic Board where he explained the background and progress of FJSS in some detail, and we resolved to develop a programme of co-operation with the Clinic and FJSS, coordinating through Silence and Pauline. We can all look forward to seeing how that moves forward, as FJSS is clearly a most worthwhile project which needs encouraging in whatever way possible. Our attendance at the Workshop, as well as being a highly enjoyable experience, was undoubtedly a step towards consolidating that new relationship.

[1] ***Alastair Sharp is a former English Judge and has been a fully accredited CEDR Mediator since 2002. He completed the LLM in Mediation and Conflict Resolution at the University of Strathclyde in 2015. He is a Member of Scottish Mediation and the Founder and Principal of ASMediation, which is based in the North-East of Scotland, with his practice extending throughout the country and with a base in London at Lamb Chambers in the Temple.***

Patrick's Ponderings by Patrick Scott[1]

Power Imbalance

What does a mediator do if there is an imbalance of power between the parties?

What is an imbalance of power?

What is power (in this context)?

These are three questions that need to be considered. I will start with the second. An imbalance of power, simply put, is where the one party in the mediation is in a more powerful position vis-à-vis the other, putting that party in a more advantageous position during the negotiation process.

Power, in this context, comes in different shapes or forms – personal qualities (such as the ability to speak well and a good command of language), emotional power (empathy or the ability to apologise), persuasion skills (negotiating skills), or knowledge or expertise (such as a lawyer).[2] There are others.[3]

What does a mediator do in the case of a power imbalance?

One of the difficulties in dealing with power imbalances is to determine whether there is in fact an imbalance of power. The reason why this is difficult is because parties may possess different attributes. One party may be represented by a lawyer at the mediation but the other, whilst not being legally astute, may be a skilled negotiator or a stubborn litigator. To illustrate this point, I am going to share the following case study.

The Flooded Flat

Peter owned a flat in Glasgow. It was a retirement investment and was tenanted. Seeking more sun than Scotland has to offer, he settled in Lanzarote and enjoyed the sunshine.

In the middle of winter, with temperatures around 0°C, the tenanted flat was engulfed in a deluge of water, flooding it completely. The tenant had to temporarily vacate his soggy surroundings and move into alternative accommodation.

The cause of the flooding was a burst water pipe in the flat above, also tenanted. The owner, Mike, sent someone around to survey the damage, as did Peter. Mike's agent advised Peter's agent that Mike would "sort things out". Well, he did not. Instead, he reported the incident to his insurers who immediately denied that Mike was liable to compensate Peter for any damage. Litigation ensued.

Peter sued Mike for the cost of the repairs, as well as the loss of a month's rental. The claim was defended by the insurers, who had instructed a solicitor to attend to the matter. The Sheriff referred the case to mediation.

I held pre-mediation meetings with the parties. Peter was adamant that he had a strong claim, and he was confident of success. I asked whether he had obtained legal advice. He said that he didn't need it as he had a watertight case. Mike had been negligent and that was the basis of his claim. Further enquiry from me established the alleged basis of this negligence. According to Peter, the central heating had been switched off, causing a water pipe to burst. That was negligent and Mike was liable!

We proceeded with the mediation, but to no avail. Mike's solicitor, who was present at the mediation, suggested that Peter obtain legal advice. Peter was adamant that he didn't need it as he had relied on Mr Google to provide him with the necessary information.

At first blush, it may appear that there was an imbalance of power in Mike's favour, with Mike being represented by a solicitor who was able to advise on the legal position. Peter had no such benefit.

I agree that there may have been a power imbalance, but I believe that that was in Peter's favour. Mike's solicitor was of the belief that Peter had no claim against Mike on the basis of a lack of negligence on the part of Mike and, if there was any negligence, it was on the part of the tenant, who was not a party to the proceedings, and that Mike is not liable for the negligence of his tenant. The solicitor openly shared this information with Peter and urged him, both prior to and during the mediation, to seek legal advice. The solicitor believed that, if Peter did so, it would be beneficial to both parties as it would result in a saving of expenses.

On power imbalance, Ellen Waldman[4] says the following:

> *"Although they may lack the money, verbal skill, or knowledge base of the other disputant, the real question is whether they possess enough of these attributes to assert their interests and*

> *deliberate thoughtfully about the options presented. Even in a one-down position, the less empowered disputant will have an opportunity to explain her side of the dispute, present her needs and interests, and explain why her views of fairness and equity should be taken seriously. It may be, even in the face of real dangers, that the opportunities presented in mediation surpass those available elsewhere."*

Peter had adequate opportunity to explain his side of the dispute, present his needs and interests and explain his views on fairness and equity, and utilised these opportunities to their fullest.

Let us now look at the position from Mike's side. Assuming the legal position, as set out by Mike's solicitor, to be correct, Peter has no valid claim. Because of his reluctance to obtain legal advice, he continues to pursue the matter and it ends up in a hearing at court. Mike is incurring fairly substantial lawyer's fees and, if successful in having the claim dismissed, may be awarded his expenses but, due to the fact that it is in the Simple Procedure court, those expenses are capped. Peter has nothing to lose as he is not incurring expenses. I believe that his personal character traits, a stubbornness to seek legal advice, creates a power imbalance in his favour.

To get back to the original question of what a mediator can do about trying to remedy a power imbalance, in a situation such as the one described above, there is not a lot that can be done. The mediator may suggest adjourning the mediation, to afford the claimant the opportunity of seeking legal advice. However, if he refuses and persists in trying to enforce his claim and mediates on the strength of an incorrectly perceived legal position, the other party either has to settle the case on the basis of an economic compromise or stand by his principles and defend the action, albeit to his financial disadvantage.

Of course, being represented by a solicitor could create a power imbalance in favour of the party being represented. Using the above case study, let us assume that Peter was persuaded that Mike's solicitor was correct (when in fact he was not) and was prepared to accept a paltry sum as a settlement. This could be seen as a power imbalance in favour of Mike. The mediator could adopt the same approach and suggest an adjournment of the mediation to seek legal advice before agreeing the settlement. In those circumstances, Peter may have been more inclined to take up the offer of the advice.

A further difficulty in dealing with power imbalances, is for the mediator to try and address that imbalance, once it is identified, whilst remaining sensitive to the fundamental principle of self-determination being a core value of mediation. In fact, the value of self-determination has been criticised on this point.[5] Noone and Ojelabi refer to Field[6], who argues that mediators need the freedom "*to make active, responsive and engaged decisions about balancing the power dynamics between the parties [and] to work in ways that more strongly support a vulnerable party, or in ways that keep in check the controlling directiveness of another*" in order for the concept of "*relational self-determination*", which is "*rooted in party-connection, cooperation, collaboration and consensus*", to develop.[7]

Like many aspects of mediation, this leaves us with some points to ponder……..

[1] Patrick Scott completed the LLM in Mediation and Conflict Resolution course at Strathclyde University in 2018 and was awarded an LLM in Mediation and Conflict Resolution with Distinction. He is currently an Accredited Mediator with Scottish Mediation, serves on the SLCC Panel of Mediators and volunteers as a lead mediator with Strathclyde Mediation Clinic.

[2] Christopher W. Moore *The Mediation Process* (4th edn, Jossey-Bass 2014) 150.

[3] Ellen Waldman *Mediation Ethics* (Jossey-Bass 2011) 94-5.

[4] Waldman (n3) 98.

[5] Mary Anne Noone and Lola Akin Ojelabi, 'Ethical Challenges for Mediators around the Globe: An Australian Perspective' (2014) Journal of Law & Policy 45 145, 165.

[6] Rachael Field, *Exploring the Potential of Contextual Ethics in Mediation, in* Alternative Perspectives on Lawyers and Legal Ethics: The Profession (Francesca Bartlett et al. eds., 2011).

[7] Mary Anne Noone and Lola Akin Ojelabi (n5) 165-6.

Civil Mediation Council Academic Forum

By Adrienne Watson[1]

The Civil Mediation Council (CMC) Academic Forum held its first meeting in March of this year and will meet online throughout the year. These meetings are open to students and staff in academic organisations.

As Pauline McKay mentioned in *Clinic News*, she attended the April Forum which focused on the varied roles and challenges of mediation clinics within higher education.

Research

The theme of the June Forum was 'Research' and the main speaker was Dr Jaime Lindsey (University of Reading) who discussed her current research on *Mediation of Medical Treatment Disputes: A Therapeutic Justice Model*. This is an area related to the dissertation I am currently immersed in, so I particularly enjoyed hearing about this. The project website can be found here and will be updated throughout the course of the project with blogs and research articles, as well as events.

One key part of the research involves interviewing mediators, patients, family members and healthcare professionals who have been involved in mediation of medical treatment disputes in the last 10 years. If any of you are involved in, or know of, any current mediations in this area, the researchers would be pleased to hear from you (j.lindsey@reading.ac.uk).

Dr Lindsey also discussed the challenges of obtaining funding for her research and was particularly keen to emphasise that we should not be discouraged by failed funding applications. Instead, we should learn from each rejection so we can improve the next one, and eventually we will, hopefully, succeed. This research is funded by an ESRC New Investigator Grant for the project, which is funded at 80% by the Research Council (total value approx. £299,000). If you are an early career researcher, you may wish to look at the current application criteria on the *UKRI website*. Please note that the funding process is transitioning to a new system, details of which are not yet available.

You can follow this project on Twitter *@meddisputes*

… we should not be discouraged by failed funding applications. Instead, we should learn from each rejection so we can improve the next one, and eventually we will, hopefully, succeed.

The *Journal of Mediation Theory and Practice*

The second presentation was by Dr Pablo Cortés who, with Dr Maria Moscati, edits the *Journal of Mediation Theory and Practice*. This journal provides a mix of practice and research articles which will be of interest to all mediators.

Dr Cortés made particular mention of a paper in the current edition which was written by our Clinic Director, Charlie Irvine, with Strathclyde colleagues Barbara Wilson and Jo Saunders. The paper, *Mediators and the Trait of Sensory Processing Sensitivity: Study Reveals a Significant Correlation*[2], is summarised in the Abstract below and considers some thought-provoking questions for mediators.

Abstract

Mediators and the Trait of Sensory Processing Sensitivity: Study Reveals a Significant Correlation

Are mediators born or made? Is there such a thing as a 'natural mediator?' Bowling and Hoffman's influential (2003) collection, 'Bringing Peace into the Room,' considers: 'How the personal qualities of the mediator impact the process of conflict resolution.' These questions are troubling for practitioners and educators. Does training matter, or are such qualities, or traits, innate? 'Trait' can be defined as 'A distinguishing quality or characteristic, typically belonging to a person' (Lexico 2020)[3]. Are some individuals drawn to conflict resolution work because they already possess these qualities? Or because they seek them? This article contributes to the debate by reporting on a study into the prevalence of a particular trait, sensory processing sensitivity, in a sample of 181 English -speaking mediators. The study found that these mediators were significantly more likely to possess the trait than the average population. The implications for practice and training are discussed.

Student Competition

Some exciting news for our students! The CMC will be running a competition in the autumn which will be seeking your ideas for raising awareness of mediation. Further details will be on CMC social media. ***The competition launches on 15th September and will close on 30th October***, so you have plenty of time to develop your ideas. The winner will be announced at the CMC Annual Conference which will take place online in November. This is a great opportunity for our students to come up with innovative ways of telling the wider world about mediation.

Next Academic Forum – 14th September 2023

The next Academic Forum will consider the role Higher Education can play in supporting public engagement with mediation. The speaker will be Naomi Kay from the Warwick Institute of Engagement.

Do contact Victoria Harris at the CMC (projects@civilmediation.org) if you would like to join the Forum.

[1] ***Adrienne Watson became an Accredited Mediator in 2016. In 2021 she began studying for an MSc in Mediation and Conflict Resolution at the University of Strathclyde where she volunteers with Strathclyde Mediation Clinic.***

[2] Irvine, C, Wilson, B & Saunders, J (2023) *Mediators and the trait of sensory processing sensitivity: study reveals a significant correlation*, Mediation Theory and Practice, vol. 7, no. 1, pp. 57-80.

[3] Lexico (2020) (powered by Oxford English Dictionary). Retrieved on 22 March 2021 from https:// www.lexico.com/definition/trait

If you have been to a thought-provoking meeting or event,
or have come across some interesting mediation-related research,
this Newsletter is a great place to share your experiences and learning.

Do get in touch with us at p.scott@strath.ac.uk

The Shape of Mediation: Monoliths, wheels within wheels, and squaring circles

By Craig Cathcart[1]

Mediation is of course a form of facilitated negotiation, within which direct negotiations also take place, not least those between the mediator and each of the parties. So it was not surprising that the wise words of the late negotiation guru Howard Raiffa (1924-2016) resonated with me following a recent co-mediation, expertly led by our own Patrick Scott. As I describe below, it also reminded me of how parties in dispute are all too human.

Raiffa's negotiation organising questions

In his seminal book *The Art & Science of Negotiation*[2], Raiffa lays out several organising questions a negotiator should ask themselves in advance. He lists thirteen in total, not all of which are relevant to every negotiation, but like any checklist can be a useful prompt to reflection before action. They cover matters intrinsic to the negotiation (for instance 'Is there more than one issue?', 'Are there time constraints?'), extrinsic ('Are there linkage effects?'), place ('Are the negotiations private or public?') and people ('Are there more than two parties?').

The question that came to mind in our case was one I have found very useful to ask in many negotiations, especially collective bargaining and team situations: 'Are the parties monolithic?'. The wisdom in the question itself is recognising that in negotiation, there may be wheels within wheels. A side may present a united front at the table, while expressing different views among themselves in private. It's a simple truth of organisational discipline, recognisable everywhere from the doctrine of collective responsibility in government, to the sports team changing room. Raiffa says

> "*it is commonly the case that each party to a dispute is not internally monolithic: each party might comprise people who are on the same side but whose values differ, perhaps sharply*"[3]

He goes on to suggest that even in single person negotiations, the individual may experience internal conflicts, perhaps akin to the social psychology concept of cognitive dissonance.

With this in mind, I teach my negotiation students that when facing a multi-person delegation, you can take comfort that they may not concede much in your presence, but you could be feeding lines of thought that will give them plenty to debate in private. However principled a negotiator you are, some hawks will never take on board the good sense of your arguments, perhaps due to reactive devaluation, egocentric overconfidence, or some other self-limiting cognitive bias. Others will, and they can become your 'inside people', advocating for you in the other team's figurative changing room.

In mediation, of course, we are not looking to divide and conquer, and we treat all parties at face value, with unconditional positive regard. But the core wisdom of Raiffa's question remains relevant: that when we have a multi-person side, privately between them they may well have different views about what's going on. Whether they share this internal divergence with us is a matter for them, for instance in private caucus, but the wheel may be turning within the wheel, affecting the speed and direction of the resolution journey.

The case

Two former members of a sports club were being pursued for the balance of annual membership fees, the pair having resigned part way through the year and outwith the standard 'cooling off' period. The couple, a husband and wife, believed that they had complied with due process by offering a brief letter of resignation and asking a club employee to convey the explanation for their resignation orally to the management committee. The wife was a former office bearer of the club, and had a public profile within the club and beyond. As far as they believed, their *pro rata* payments up to the date of resignation were all that was due. They received oral confirmation from the employee that all steps had taken place, and so thought no more about it.

They were surprised some time later to find themselves being pursued for the balance of the whole year's fees – around £900. The club denied the employee had any authority to agree or confirm resignations, and denied that the matter was brought to the attention of the management committee at all. Accordingly the club claimed the balance of fees for the year – as far as it was concerned, no resignation had taken place. The couple

refused to pay, and a court action was launched, then diverted to mediation.

The claimant's position was that this was an egregious attempt by a former office bearer to avoid paying a legitimate debt, and that to write it off would be both harmful to the bottom line of the club, and set a bad precedent. For the respondents, they believed they acted in good faith by informing an agent of the club, who confirmed they had done everything they needed to. If the club suffered from poor governance, it was not the respondents' problem. They also believed that there was some sense of score settling going on: they believed nobody else in the history of the club had been pursued in this way, and were concerned that the dispute was common knowledge within the organisation. This felt both malicious and hurtful.

At the joint session, the claimant sports club was represented by a nominee of the management committee alone, and the wife and husband respondents appeared together. Unsurprisingly, the entrenched positions were rehearsed and perhaps reinforced in a tense and heated discussion. The sports club representative seemed confident he had a very strong BATNA ('See you in court'), while the couple's sense of outrage at their unfair treatment made it a matter of principle not to concede. So far, so familiar for court-annexed mediation, and the clock ran out with no agreement.

The mediator's insight: wheels within wheels

We had caucused with both sides, and it was when privately speaking to the respondents that we glimpsed the possible wheel within the wheel. The husband described himself as seeing things in black and white: the club was out of order, so to concede or compromise would be wrong. The wife did not express a contrary view; instead she just agreed that her husband did indeed have a binary take on the world. As mediators well know, sometimes what is not said is as significant as what is.

After the session closed, Patrick and I debriefed. He shared his part observation, part hunch, about the possible difference of view within the married couple. While they were being pursued together, they may have individual perspectives on what would be a wise response. There could be an ongoing internal negotiation that the respondents had not shared with us, but perhaps we could help them with it, if they were happy to let us into the team changing room.

On that basis, we agreed to follow up with an offer to all parties that should they wish to reconvene, we would make ourselves available. As mediators know, time allows passions to cool and reflection to take place. In this case, if Patrick was right, it also gave the married couple the chance to negotiate between themselves as to what was the best way forward.

The respondents quickly said yes, and as we arranged a further caucus with them, the club's claimant also said yes – despite the apparently cast iron BATNA of a day in court. When we met the couple, this time they trusted us more: they spoke candidly about their different views, tacitly asking for our help to mediate within the mediation. The husband still stuck to his 'no surrender' guns. The wife, though, feared the prospect of a public court case at all, let alone one that they lost. She wanted to negotiate; to have some control over the outcome. He was resolute they should not give in, and would see it all the way.

Love will save the day: squaring the circle

Earlier I mentioned cognitive dissonance: that we are psychologically uncomfortable when we simultaneously hold two opposing, contradictory ideas about ourselves. The tension is uncomfortable, so we act to reduce it. So, if I hate my boring job yet turn up each day no matter, I need to reduce my internal dissonance by either quitting, or by reframing the story I tell myself about why I do it. For most people in this situation, sticking with the rotten job is rationalised by thinking of the money, or telling oneself that it is a stepping stone to something else, or more bleakly, that one has no choice.

In our case, the husband could see the sense in his wife's desire to negotiate, but this was opposed by his strong conviction not to concede anything to bad faith actors. How could he square this circle? In the end, it was love: he could rationalise the compromise of his principles out of loyalty and devotion to his wife. He could do it for her. On that basis, they worked up a proposal.

The claimant had also used the time since the joint session to reflect on other ways out of the situation, perhaps in a calmer moment realising that there is no sure thing when it comes to court action. He was receptive to an offer, so we re-engaged with both parties and in reasonably short order helped them come to an agreement. It covered both the monetary and reputational aspects of the dispute, with no admission of liability and a positively worded joint statement to be issued to the club's members.

The shape of it all

Patience, persistence, and understanding what conflict can do to us, once again proved the mediators' greatest virtues. We accept that each human being is unique, so we should understand that even those on the same side can view the situation quite differently. Being alert to that possibility, and smart enough to follow up on it when we detect it, lets us help the parties shape that better outcome for themselves.

[1] ***Craig Cathcart teaches dispute resolution at Queen Margaret and Strathclyde universities, as well as providing consultancy, with a specialism in mediation and negotiation skills, both at home and abroad. He does court-related and workplace mediation, and sits on the board of Scottish Mediation and Strathclyde Mediation Clinic.***

[2] Howard Raiffa, *The Art and Science of Negotiation* (Cambridge, Mass: Harvard University Press 1982)

[3] ibid 12.

References

Aaronson E, *The Social Animal* (10th edn, New York, NY: Worth Publishers 2008)

Raiffa H, *The Art and Science of Negotiation* (Cambridge, Mass: Harvard University Press 1982)

Sebenius J.K, 'BATNAS in negotiation: common errors and three kinds of 'No'' (2017) Negotiation Journal 33 (2) 89-99

Working with Lawyers in Mediation

Workshop presentation by Anna Howard[1]

Dr Anna Howard delivered a workshop on *Working with Lawyers in Mediation* at the University of Strathclyde's Third UK Mediation Clinic Conference on 18th March. We are pleased to include Anna's speaking notes for her workshop below.

It is a great pleasure to be back in Scotland. Scotland holds a very important place in my mediation career. It was in Edinburgh back in 2014 at Core Solutions led by John Sturrock KC that I trained as a mediator, and it was then that I decided to dedicate my career to mediation. Since 2014 I have received continued support and encouragement from the Scottish mediation community and I would like to say thank you.

I remember listening to a talk by Professor Carrie Menkel -Meadow and something that she said has stayed with me. She said that she considered her talk a success if she had introduced the audience to a publication which they found helpful. I came away from Professor Menkel-Meadow's talk having been introduced to the work of Mary Parker Follett so by that standard her talk was a great success. I very much hope that some of the publications which I will refer to in my talk will be helpful for you.

The topic for my workshop today is working with lawyers in mediation, and I'm going to explore four themes.

Working *with* lawyers

As I start this workshop, I'd like to pause and focus on the word 'with'. Working *with* lawyers may suggest that we are working with one homogenous group. But, of course, from our experiences of working with lawyers, we know that lawyers' attitudes towards mediation vary. Here are a couple of quotations which convey that variation:

> "*Mediated interventions should be part and parcel of the process of resolving disputes wherever they arise in our society – whether between businesses and consumers, amongst families or between the citizen and the state. There is nothing alternative about … mediation…*"

These are the words of Sir Geoffrey Vos, Master of the Rolls, in a speech at Hull University in 2021.

And then we have a rather different view:

> "*The stench of mediation, mediation, mediation …*"

These are the words of an in-house counsel who participated in the research for my book. I cannot capture the tone with which those words were said, but I can assure you that it was not pleasant.

Different Contexts

We work with lawyers in different contexts. We work with them in the mediation room. We work with them in the promotion of mediation, including in the development of policy.

And for some of us, including myself, we work with (or perhaps some might say work *on*) the lawyers in ourselves. I'll focus today on the first two and interrelated contexts: working with lawyers in the mediation room and working with lawyers in the promotion of mediation. I'll leave the other for another day. Working on the lawyer within me is certainly a work in progress.

Four themes

There are four themes which I will be focusing on today, and conveniently they all start with the letter C:

Contribution
Control
Complexity
Closure

Before we explore these four themes, I'll briefly explain what I will be drawing on as we consider these themes.

I will draw on my former life as a commercial lawyer and also the research I did for my PhD which then became the basis of my book: EU Cross-Border Commercial Mediation – Listening to Disputants. While my research focused on the EU cross-border commercial mediation context, the findings are relevant beyond that context, at least in the commercial mediation context, and perhaps even beyond the commercial context.

By way of a very brief description of my research, against the backdrop of recommendations to improve the EU Mediation Directive, I interviewed in-house counsel of multinational companies regarding their use, and their

lack of use, of mediation. I wanted to know why they did and did not use mediation.

Much of the research on the EU Mediation Directive has tended to be quantitative research which of course has its own particular value. True to mediation's approach, I wanted to open up the conversation and see whether we may have been missing any important insights. As Charlie Irvine has described "*The goal of this [type of research] is to build theory rather than to test it, so as to remain open to new insights emerging from the data"* (Charlie Irvine, *What Do Lay People Know About Justice: An Empirical Enquiry* at p.153). In my later academic work, I have continued to focus on qualitative research and, in particular, interviewing. I have found similarities between mediation and that type of qualitative research: listening skills are key for both.

1. Contribution

Returning to the themes for today's workshop, I'd like to consider the theme of contribution from two interrelated angles. First, mediation's contribution as a dispute resolution process. And secondly, lawyers' contribution to mediation.

Mediation's contribution as a dispute resolution process

A key theme that emerged from my research was that many of the lawyers I spoke with did not see the point in mediating if there had already been negotiations (whether by the lawyers or the parties). In other words, they thought that mediation did not add value to unassisted negotiation efforts.

For example, one explained:

> "*People do not see the need to keep negotiating with a third party as they are already trained in being a negotiator.*"

Another explained:

> "*Why compound an already bad situation [failed negotiations] when you can go to a more structured process in court?"*

And another described mediation as another "*hoop to go through*" between negotiation and arbitration/court.

Understandably, if lawyers think that the mediation process does not add value to a process which has already been undertaken (i.e. unassisted negotiations) they will be reluctant to propose it.

But there is a more nuanced point here which emerged in my research.

This insight is interesting as it helps to explain further why lawyers may be reluctant to propose mediation to their clients.

Some explained how a proposal to mediate, at least in the commercial context, might be poorly received as their clients consider themselves to be good negotiators and suggesting mediation to them might be taken as a suggestion that they did not do a great job as negotiators. In other words, you are saying to them that they need help with their negotiations.

One of the in-house lawyers explained:

> "*If professional people and negotiations have failed, then let's continue with a third party. If you don't wrap it carefully, it's perceived that I didn't do a great job.*"

And another said:

> *"The business see going to mediation as an admission of failure. They haven't been able to deal with it commercially*."

There is a concern that proposing to experienced negotiators that they engage the assistance of a third party suggests that they 'didn't do a great job' and that this could, for them, emphasise their failure to deal with the dispute themselves.

Lawyers' own contribution

Perhaps more obviously, lawyers may be reluctant to propose mediation because they are unsure of their role/contribution in the process. A continued lack of awareness and/or experience of mediation means that many lawyers may be unsure about their contribution to the process and, understandably, will default to the safety of the familiar.

Surprisingly, research continues to identify a lack of awareness/understanding of mediation as a key reason why the use of mediation has not increased. I recall a study by Queen Mary University of London in which one respondent said that the demystification of "*mediation*

voodoo" could increase its popularity. I wonder what we have been doing wrong if some associate mediation with voodooism?

This makes me think back to when I was a commercial lawyer, roughly 15 years ago now, and how - I am embarrassed to say - I knew nothing about mediation. I was working on a difficult competition law case. I wrote a detailed and lengthy paper for my client; went off on maternity leave with my first child, returned a year later and the case was still on-going, so I produced more advice. And then one afternoon my very pleasant client called me up and said, "*we have resolved the matter.*" And when I asked him how he had done that (feeling rather embarrassed that I had not helped him to achieve the resolution) he said that he had met with the other party in the pub, and they had reached an agreement. No lawyers; 'just' a conversation in the pub. And I remember wondering at that moment: what could I have done to have helped him have that conversation earlier?

And fast forward nine years and I found myself in John Sturrock KC's mediation course. On one of his slides were the words which parties have frequently said after his mediations: "*I wish we'd had this conversation earlier*." The penny dropped: that is what I could have done: suggested mediation.

I wonder how much has changed since that case. How much has changed in nearly 20 years? Fast forward to 2022 and I wonder, from my conversations with friends and former colleagues who are lawyers, if much has changed.

These personal experiences are of course anecdotal but the continuing lack of awareness and understanding of mediation has been identified by numerous studies, including in my own research for my book. As one of the in-house counsel interviewees in my research noted:

> "*the key [reason why mediation is not used]: unfamiliarity with the process or closely linked to that is a misconception of what it is*."

2. Control

And now I'll move to the next theme: control. The points we have considered under the theme of contribution are particularly relevant to lawyers' role in getting the parties into the room. And now we move into the mediation room itself and lawyers' role in the room. And this brings me to the theme of control.

And I would like to consider two aspects of control: control of the client and control of the mediator.

Control of the Client

Tamara Relis' book, *Perceptions in Litigation and Mediation*, shares the findings of her research involving interviews and observations of mediations of medical injury cases. Relis' book offers some interesting insights into the role of lawyers in the mediation. She found that it was lawyers and not disputants who subliminally controlled what transpired at mediations:

> "*The lawyer basically is the person in control... [The injured parties] tend to rely very, very, very heavily on their counsel and take their counsel's advice*." Lawyer-mediator (at p.160)

Interestingly, Relis noted that this issue was rarely identified by the disputants. Rather, it was a pattern identified by the mediators.

This begs the question what were the parties relying heavily on their counsel for?

Bill Marsh has explained to me that in his mediations he wants parties to make wise and well-informed decisions. It seems to me that being well-informed provides the platform for wisdom to then be applied. In other words, wise decisions stand on a foundation of information.

It may be that the parties are relying on their lawyers to make well-informed decisions, for example getting a better understanding of the legal merits of their cases.

But, the quotation from Relis' book suggests that the type of reliance on the lawyer is of a different nature. As Relis concludes "*Lawyers, not disputants, subliminally controlled what transpired at mediations*." (p.159)

It is not, however, surprising that clients rely heavily on their lawyers. Mediation is uncomfortable; it is not easy.

As Tim Hicks explains in *Embodied Conflict,* interest-based processes such as mediation ask us "*to lay down our weapons of offense and defense, to not know together, and to jointly find an outcome that is undefined to begin with*" (at p.153). To lay down our weapons of offence and defence … to not know together. That is uncomfortable for the parties and certainly for the lawyers.

And it is not only lawyers who may hold tightly to those weapons of offence and defence. They may be strongly encouraged by their clients to adopt that approach, who, as Julie MacFarlane has explained:

> " … *want nothing more than to be told that they are wholly 'right' and that the other side is wholly 'wrong'*." (Julie MacFarlane, *The New Lawyer,* at p.52)

Control and responsibility

A related theme emerged in my research, with parties wanting to be relieved of control and therefore the responsibility for determining the outcome of their disputes.

For example, an in-house counsel explained:

> "*Resolving by mediation rather than non-consensual methods requires a certain amount of accountability and let's say a certain management type. A lot of management saying if I go to mediation and then settle I might get shot at for agreeing a bad deal. If I let it get ruled by court I can say that they got it all wrong. I'm kind of exculpated."*

Letting someone else determine the outcome meant that they were relieved of the responsibility and, of course, any subsequent blame for the outcome.

Control of the Mediator

Now I'll move to the second, and perhaps more provocative, theme of control: lawyers' control of mediators.

And I'll return to Tamara Relis' research. Relis identified that some mediators were overpowered by lawyers. This finding was based on the parties' perception and not the mediators' perception. Interestingly, Relis found that it was the combination of being a woman and a 'non-lawyer' that more often resulted in the mediator being overpowered, or I should perhaps more accurately say the disputants' perception that the mediator was overpowered. Relis identifies that "*there was no evidence that any male non-lawyer-mediator in the dataset was overpowered by legal actors at mediation*." (Tamara Relis, *Perceptions in Litigation and Mediation,* at p.217).

3. Complexity

I now turn to our third theme of the workshop: complexity.

During the many years of writing my PhD and book, on my desk I had a folder of articles which I would return to when I needed inspiration and encouragement. And one of those articles was written by Bill Marsh and others from which I have taken this wonderful quotation:

> *"Conflicts engender a descent into simplicity and caricature, and binary processes exacerbate that… Life is complex. Conflicts even more so. Do we not want conflict resolution processes that can handle complexity? Perhaps one of the great contributions mediators can make is to re-complexify – if that word really even exists – to re-introduce nuance."* (Bill Marsh, *Are Legal Disputes Just About Money? Answers from Mediators on the Front Line* at p.133)

This struck me as a very different and refreshing depiction of mediation. Mediation is frequently portrayed as a quick and cheap dispute resolution process, a description which does not convey the value that mediation can bring. Bill's description portrays mediation in a more positive light: a dispute resolution process that can handle and indeed enable complexity.

Little did I know that a similar finding would emerge from my research with in-house counsel.

Sensibility to the complexity of disputes

In my research I was looking for reasons why mediation was used. And one of the reasons took me a while to discover. As I was going through the transcripts of the in-house counsel who were particularly enthusiastic proponents of mediation, I noticed that these interviewees had a very different way of looking at disputes. And I called this a "*sensibility to the complexity of disputes*". These quotations convey that attitude:

> *"There is a simplified way of thinking about disputes: right or wrong … Disputes are inherently complex. People look to simplify them*." In-house counsel

> *"It is … important to learn from disputes and improve how the company acts and compared to the normal way of dealing with disputes mediation*

> *gives more insights into the roots, causes of the dispute. It puts the organisation in a better place to learn from the dispute*." In-house counsel

These lawyers did not see disputes as being black and white, as being about right or wrong. They had a more nuanced attitude to disputes. And they identified mediation as a process which can engage with that complexity, allowing them to gain insights into the dispute and allowing them to learn from it.

I have often wondered why those in-house counsel, who were strong proponents of mediation, had a very different view of disputes. Is it background, training, personality? Or a combination of these? Perhaps that is another area for research. What is it that might lead lawyers to view disputes and mediation in this more nuanced way?

So how does mediation enable this re-complexification (to borrow Bill Marsh's words)? I think one of the key ways is by encouraging listening, true listening. As Kenneth Cloke explains:

> "*Conflict represents a lack of listening, a failure to appreciate the subtlety in what someone else is saying*." (Kenneth Cloke, *Mediating Dangerously,* at p.7).

It is through listening that subtlety and nuance can be re-introduced.

Complexity & listening

In *Developing the Craft of Mediation*, Marian Roberts identifies listening as a key quality of mediators. It is also the skill which I continue to find the hardest to master. In one of my mediation classes last term at UCL, I spent some time focusing on the importance of listening. I could see from the students' faces that they were thinking: everyone can do that. I then asked them: when was the last time that someone listened to you, fully and with their complete attention, listening carefully to understand and not to respond? Not simply waiting for their turn to speak and then turning the conversation to themselves? There was then a different expression on the students' faces.

I recall sitting in John Sturrock KC's mediation training and having to tell myself not to speak, to keep listening and to focus exclusively on what the other was saying. That was challenging and exhausting, particularly as my legal training had taught me to listen only for what was relevant to the various legal points I needed to argue. I was trained to listen so as to fix the problem. It's hard to re-programme my settings to move away from that fix – its mode to assisting the parties to find their way of fixing what is theirs. I am still working on it.

Ken Cloke has written about the sense of timelessness that mediators can create by "*listening without aim … to each party.*" (Kenneth Cloke, *The Dance of Opposites,* at p.120). For the lawyer in me, the notion of listening *without aim* is deeply uncomfortable.

And Dr Scilla Elworthy, whom I had the great privilege to meet at a conference in Edinburgh in 2018, describes listening in her book, *Pioneering the Possible*, as a "*profoundly radical action .. and the sign of someone truly evolved."* This description conveys how rare good listening is and how hard it is to do.

4. Closure

And now I turn to the fourth theme: closure.

> "*[Parties] explain that what they want is not just agreement but 'closure'* …" (Bush & Folger, *The Promise of Mediation*, at p.52).

As I mentioned earlier, mediation is often portrayed as a quick and cheap dispute resolution process which, in my view, undersells mediation. That labelling does not convey mediation's value. I recall in a mediation a few years ago a lawyer saying to me that her client wanted to be heard and wanted closure, and mediation provided an opportunity for that.

I was struck by how she referred to being heard and closure together. Being heard (or rather feeling that you have been heard) may not lead to closure, but closure cannot be achieved without feeling heard. Through the mediation that lawyer played a key role in assisting her client to be heard: encouraging her to participate directly and to explore what mattered most to her.

AARREE

On a post-it note on my desk, I have this mnemonic from John Sturrock KC's mediation course: AARREE. It is a tool

which John taught us to make the person with whom you are in dialogue feel heard:

Acknowledge
Accept (not agree)
Recognise
Reassure
Engage
Explain

For me this captures so well the emphasis on seeking first to understand and then to be understood:

- I *acknowledge* that this has been a very difficult time for you.
- I *accept* that you have done your best in very difficult circumstances.
- I *recognise* that my actions have contributed to this situation.
- I r*eassure* you that I did not mean for my actions to have the effect which they have had on you.
- I'd like to find a way to move forward with you (*engage*).
- I'd like to *explain* my actions, if I may.

Promotion of mediation

Data

Having considered the four key themes of contribution, control, complexity and closure, in this last part of my workshop, I'd like to turn to the broader issue of working with lawyers in the promotion of mediation.

In a speech at Hull University, Sir Geoffrey Vos, Master of the Rolls said

> *"What I hope to achieve is take the 'alternative' out of ADR, to focus on hard data and make sure that every dispute is tackled at every stage with the intention of bringing about its compromise."*

Can data help to take the alternative out of ADR? If so, what data do we have which could assist with taking the alternative out of ADR? And what further data do we need to gather?

I've come across quite a lot of data which conveys how cheap and quick mediation can be compared to litigation or arbitration. That type of data does not seem particularly helpful to take the alternative out of ADR.

But might we be able to capture data which conveys mediation's value? For example, could data convey the closure which parties so value? What about a theme that came up in my research that mediated agreements have higher compliance rates than negotiated settlement agreements (without the assistance of a third party) because, as the interviewee explained, the mediator helps the parties to "*think of everything*".

Education

Another important way to promote mediation is through education. Recently, at the Westminster Legal Policy Forum, Lady Justice Asplin said:

> "*Education and acceptance [of mediation] is absolutely key to make the system work and maintain confidence. It can only be successful if the public, profession and judiciary embrace that change*." (Lady Justice Asplin DBE, Court of Appeal Judge & Chair of the Judicial ADR Liaison Committee at Westminster Legal Policy Forum conference, *Next steps for ADR in England and Wales*, 13 March 2023)

As serendipity would have it, Lady Justice Asplin has given me another theme which starts with c: confidence. I was struck by the reference to "*maintain confidence*". If mediation is to become a bigger player, it must be brought into the justice system in a way which maintains confidence in the system.

Education - universities

I'd like to think about education from two related angles: mediation education at university level and mediation education more broadly of the general public.

First: mediation education at universities. Seeing greater educational provision of mediation at university level is, in my view, a key way to increase confidence in mediation. It signals that it is a subject worthy of attention at university level and, of course, those who learn about mediation come away, we hope, with confidence in the process and will be able to offer an informed view of mediation as they go into the workplace, whether that is in law or another field. Strathclyde is doing remarkable work in teaching mediation at university level.

Across England and Wales, at least, the provision of mediation education at university level is patchy at best, and it is mostly offered at postgraduate level. Undergraduates are generally not being offered the opportunity to learn about mediation. And, in my experience, it is not because of a lack of interest from the students. When I taught contract law at undergraduate level many of my students approached me to express their enthusiasm and desire to learn more about mediation.

Secondly: mediation education of the general public.

How have we been seeking to bring about an increase in the use of mediation? Many of the promotional efforts to encourage the use of mediation adopt an adversarial approach, pitting mediation against litigation (or arbitration), promoting mediation by criticising those other lengthy and costly processes. As I have argued in my book, could we not have a promotional approach which is *for* something rather than simply *against* something?

Could we try to adopt a *mediative approach* to the promotion of mediation? What effect might that have? Could mediation as a field seek to understand fully its prospective audience before seeking to be understood? Could we use John Sturrock's AARREE framework which focuses on understanding before seeking to be understood outside of the mediation room to assist with this mediative approach to promotion and the development of policy?

Confidence

As Kenneth Cloke has said "*every way we bring change about significantly advances or impedes, expands or contracts, enlarges or limits what it is possible for us to achieve*." (Kenneth Cloke, *Conflict Revolution,* at p.321).

Is the way in which we are interacting with lawyers whether in the mediation room, in the promotion of mediation at broader policy level or even - for some of us - with the lawyer within ourselves, expanding or limiting what we might achieve?

Thinking back to Lady Justice Asplin's comment about the importance of building confidence in mediation and the quotation with which I started my workshop on the stench of mediation, I'd like to close by posing a couple of questions for reflection:

- What can mediators do (individually or collectively) to build lawyers' confidence in mediation?
- What can you commit to doing?

Thank you.

[1] ***Dr Anna Howard is a lecturer, mediator and author. Anna is a Guest Lecturer at University College London and a Research Fellow at the Singapore International Dispute Resolution Academy. Anna's recently published book, EU Cross-Border Commercial Mediation: Listening to Disputants (Wolters Kluwer 2021), is based on her PhD which she was awarded by Queen Mary University of London in 2020.***
Anna qualified as a solicitor (England & Wales) in 2003 and practised EU competition law at Freshfields Bruckhaus Deringer and Fieldfisher before starting her academic career as Lecturer of Law at the School of Law, Singapore Management University. Anna is an accredited mediator (Core Solutions) and recently trained as a community mediator (Calm Mediation).

Book Review

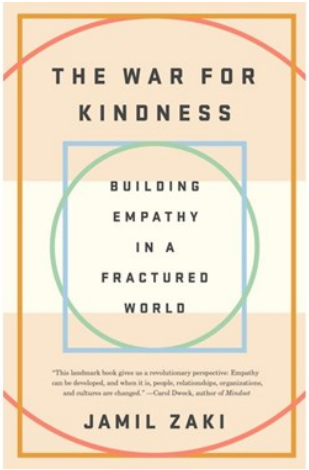
The War for Kindness: Building Empathy in a Fractured World by Jamil Zaki[1]

Review by Leon Watson[2]

While Jamil Zaki chose a career as a psychologist and devoted himself to the academic and intellectual study of empathy, the deeply intimate introduction to his book hints at an alternate reality in which he instead pursued a career as a practitioner of empathy – perhaps as a mediator. Zaki describes his parents' divorce – a four-year saga that arguably cried out for mediation – as a learning experience through which he came to recognise that while two people's perceptions may differ drastically, they may yet be true and deeply held. To my mind this speaks to an inherent underpinning of a mediator's practice, an appreciation of pluralism. Scattered throughout this rigorously researched and broadly scoped book are further such pearls of pertinent wisdom, drawn from sources as varied as staff on new-born intensive care units, police training instructors, schoolteachers and former far-right hate group members. This handbook in helping others reaches out to all those in caring professions, arguably including – without specifically mentioning – mediators, and offers keen insight into the invaluable skill of empathy.

Central to the message Zaki seeks to impart through this book are the following claims – that empathy is a multifaceted skill comprising sharing, thinking and caring elements, some of which are a hinderance to effective care; that, while some of our capacity for empathy is genetically predetermined, we have significant potential to develop our empathic capacity through continued practice; that we, that is modern humans, are increasingly disinclined to empathise with others, especially those we see as outsiders, and social norms tend to exacerbate this disconnect; that technology has an ambivalent potential with regard to enhancing or eroding empathy, depending entirely on our intentions; and that, if what we leave behind for future generations is to be at all worth their while, we must extend our empathy not just to those we don't yet know, but those who will live on when we are gone. I did describe the scope as being broad.

Breaking empathy down, from an abstract sensitivity to other's feelings, into the discreet elements of sharing – our ability to mirror the emotions others are experiencing, thinking – a consideration of someone else's perspective, and caring – the inclination to help improve their situation, opens the way to what *The War for Kindness* has to offer for caring professionals. Fundamentally, Zaki is concerned with our concern, as well as our capacity to cultivate it further. Concern refers to the positive potential of the caring element of empathy, as opposed to distress. This, according to Zaki, is the aspect of empathy crucial to any caregiver, but also the most fraught if misplaced and allowed to manifest as distress. The distinction here lies in whether we become attached to the suffering of others as we seek to help them. For some this may seem an unavoidable aspect of care, however Zaki argues that these two states are not intrinsically linked and in order to most effectively assist those we encounter, it is imperative that we are able to feel for people rather than feel as they do. This simple shift can dramatically reduce the initial emotional drain a caring professional experiences, as well as reducing their long-term aversion to the suffering of others and ultimately the potential for burnout.



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Zaki outlines a number of methods, drawn from the practices of medical professionals dealing with heartbreak on a daily basis, that have proven effective in facilitating a concerned, rather than distressed, disposition. Pre-eminent among these, to my mind, is the practice of Buddhist Metta meditation, otherwise known as loving-kindness meditation. Research referred to by Zaki indicates that caring professionals who practice Metta quickly become less distressed and, in time, come to be motivated by the suffering of others as, rather than sharing their pain, they perceive the opportunity to alleviate their woes. Other practices include group reflection and peer to peer mentoring, as means of experiential sharing and learning as well as emotional and psychological support. Anyone reading this who has taken the opportunity to participate in the Clinic's peer support sessions will appreciate the value of such practices. Those who are yet to, I would implore to avail themselves of an invaluable opportunity for collective support.

[1] Jamil Zaki is a professor of psychology at Stanford University and the director of the Stanford Social Neuroscience Lab.

[2] ***Leon Watson is a recent graduate from the LLM Mediation and Conflict Resolution course at the University of Strathclyde, and volunteer mediator with Strathclyde Mediation Clinic.***

Book Review

Getting to Peace: Transforming conflict at home, at work and in the world[1]

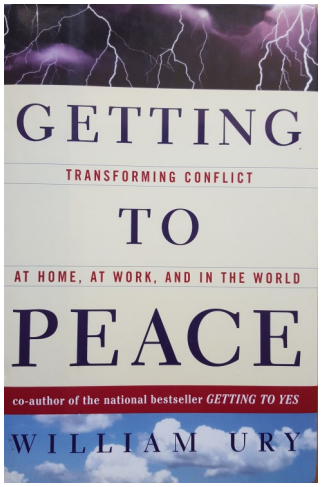
by William Ury[2]

Review by Gordon McKinley[3]

I suspect most of us will have read and reflected on William Ury's famous book *Getting to Yes* at some point on our journey to becoming a mediator. This is where I first encountered the idea of principled negotiation and thinking about separating people from problems, focusing on interests rather than positions, developing options for mutual gain and insisting on objective criteria. Given how well known the author is I was, therefore, intrigued by the title of another of his works. In *Getting to Peace, Transforming Conflict at Home, at Work, and in the World*, Ury examines what we can do to bring about peace in a world that so often feels as though its identity is measured and sustained by conflict. As we look out on a world riven by the threat of war, posturing and fighting, it can be hard to consider any other way!

His premise is that it takes two sides to fight, but a third to stop that fighting. Building on his huge experience in family disputes, industrial action and international conflicts, he presents an alternative way of thinking about how we might stop fights. The third side can be family, colleagues or friends in the everyday conflicts we often find ourselves embroiled in. Alternatively, it can be nations, political parties, the media or even the United Nations in large scale conflict. His suggestion is that the third side has the opportunity and even the duty to intervene to prevent conflict wherever possible or otherwise to contain or stop it.

As an anthropologist, Ury looks back at our history and draws a number of conclusions about the human race and whether or not we might ever be able to get along with one another. In the first instance he asserts that our nature has not always been warlike. His findings are that there is little evidence that humans fought with one another in ancient times. He suggests that war only came into fashion in the last ten thousand years. In that early period of our ancient history, people tended to be nomadic, and they found food was plentiful enough for everyone. It appears to have only been when people settled down and started growing food themselves that we began to find something to fight about. As mediators often find, conflict invariably erupts in relation to scarcity of resources!



Probably the aspect of the text that I found most helpful relates to his description of the practical roles that we can all play to engage well with destructive conflict. These roles include those of the bridge-builder, mediator, teacher, witness, referee and peacekeeper. The author takes us through a number of examples and provides very practical and helpful guidance on how the third side might behave in a range of circumstances. One key example in the text relates to a story from the Vietnam war where a group of monks functioned simply as witnesses. They took no overt action, but their presence alone was enough to stop the fighting. In my own practice, I have found this to be the case on a number of occasions. The simple act of having someone else in the room can modify the behaviour and thinking of those in conflict.

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In his conclusion Ury states the following:

> *"In the sheer magnitude and complexity of the challenge, the struggle for peace, ironically enough, most closely resembles nothing so much as war itself. Think of how much work goes into preparing for and engaging in wars. Consider how many young men and women serve in the armed forces. Weigh how much treasure, talent, and blood are poured into this gigantic venture. Reflect on the around-the-clock vigilance required by huge numbers of individuals. No less effort will be required for the sake of peace."*

The main message of this book is an optimistic one. Whether we are taking on the formal role of mediator or as we find ourselves in other settings, it is clear that there is much work to do if we are to get to peace. In summary, conflict on all scales should and can be engaged with positively using the approaches Ury identifies. As the quote at the start of one chapter from Churchhill reminds us: "*jaw jaw is better than war war*".

As a brief footnote, I should highlight that this book was published at the turn of the century and certain aspects feel a little out of date given the current war in Ukraine, political polarisation and division in the west and so many other international tensions following the pandemic. However, if we lay that concern aside, I think there is plenty to make it worthwhile picking up a copy. Investing our energy in making peace is never more needed than today.

[1] *Getting to Peace: Transforming conflict at home, at work and in the world* has also been published as *The Third Side: Why we fight and how we can stop*.

[2] William Ury is the co-founder of Harvard's Program on Negotiation, where he directs the Project on Preventing War. One of the world's leading negotiation specialists, his past clients include dozens of Fortune 500 companies as well as the White House and Pentagon. Ury received his BA from Yale and a PhD in Anthropology from Harvard. His books *Getting to YES* and *Getting Past No* have sold more than five million copies worldwide.

[3] ***Gordon McKinley completed the MSc in Mediation and Conflict Resolution course at Strathclyde University in 2019. He currently works independently in leadership development, executive coaching and as a mediator focusing primarily on the workplace and with families of children with additional support needs, as well as volunteering for Strathclyde Mediation Clinic.***

Aunt Minerva's Agony Column

By her earthly intermediary Alastair Sharp[1]

Minerva is the Roman Goddess of Wisdom and Just Causes. She has agreed to share her wisdom with members of the Clinic and answer queries as to unusual or interesting cases. This is her response to a another query from 'Worried' of Kinlochsporran. The names and some of the facts have been changed for confidentiality purposes.

On the last occasion we left 'Worried' of Kinlochsporran wrestling with the problems of the Giant Romanian Rabbit and about to embark on the mediation. Apparently, it was a disaster with Fluffy being brought to the mediation in the local Kirk, which the Minister had kindly made available for the purpose, but she escaped, ran riot and made an amazing mess everywhere and ran up the church tower from which she leapt and disappeared up into the hills and has never been seen again. The wrath of God was brought down on the parties by the Minister for ruining his font and the flower arrangement for the Sabbath. The parties, united as victims, apparently shrugged their shoulders and repaired to the local hostelry where they consumed a large number of drams of the local Glensporran 15-year-old malt and emerged as good friends. From my perspective as a Transformative Mediator, to whom the original dispute is of limited interest, this could be considered a success and I informed the rather crestfallen 'Worried' of this, at which she sounded heartily relieved.

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TODAY'S PROBLEM

Dear Aunt Minerva

Thank you for all your help with the Fluffy case which I thought at one stage was a disaster. Let's hope Fluffy is safe up in the hills and has not been consumed by some raptor or shot in a deer cull by mistake. Wowee! A Transformative Mediator indeed. Best not to shout about it too much my friends are saying, might be misinterpreted.

I'm afraid that the hills of Glensporran continue to be beset with the sounds of conflict and I'd be most grateful if you could advise me as to my current somewhat sticky mediation between two beekeepers.

The Background

Professor McSweety (the prof) had been a Professor of Anthropology and Anthropomorphism at the University of the Outer Isles and had retired to a remote croft at the head of Glensporran with his wife Esmerelda and a large quantity of bees. He specialised in the native Scottish Black Bee *Apis mellifera mellifera* and was one of a small band of enthusiasts seeking to reintroduce and expand the dwindling population of Black Bees. It is a little-known fact outside of bee circles that the majority of UK native bees were wiped out during the 20th century by a bee plague and continental bees were imported to replenish the honey industry. Certain colonies of native Black Bees survived in distant areas and the prof was an enthusiast in their revival in Glensporran. To successfully do this, his bees could not interbreed with the continental imports and hence had to be at least three miles from any other beekeeper.

The prof has a number of hives, but his pride and joy was one headed by a particularly prolific laying Queen that he had bred himself and whose worker bees produced a particularly delicious, flavoured blossom honey in the summer and a strong rich strain of heather honey later in the season.

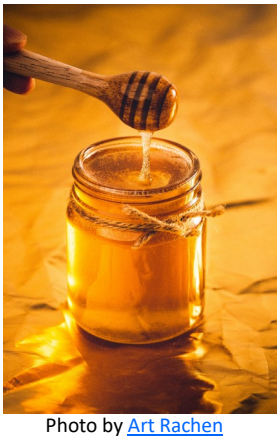

Photo by Art Rachen on Unsplash

Over the hill in Glenspurtle was a commercial beekeeper called Angus McCard who kept his hives on the far side of his land some ten miles away from the prof's bees, so all was well and indeed the two beekeepers were acquaintances

and both used to sell their respective products at the local farmers' market. There was a friendly rivalry as to the quality of their respective honeys, but it was generally acknowledged that the prof's blossom and heather honey from his favourite Queen was far superior.

Photo by Lucas van Oort on Unsplash

All was well until Angus' son returned from Glasgow where his startup had failed, and he decided he wanted to make his mark in the honey business. He persuaded his father to let him have a number of hives on the other side of their land near the border with the prof's property. It was still just in excess of the three-mile limit so the prof was not too concerned although he did say to Esmerelda that he didn't trust the man with his lean and hungry look, to which she retorted that he had been reading too much Shakespeare and she was sure he was not dangerous.

The prof and Esmerelda then went off on their annual holiday to Greece where they spent a happy week on a remote island reading tomes on antiquity until being told that there was a controllers strike at Athens airport, which meant that their flight home would be delayed for three days. This was of great concern to the prof as it meant that he would not be able to inspect his bees on a weekly basis as was desirable during the summer, to ensure that they did not swarm, that is, depart the hive led by their Queen to seek pastures new. This is a hazard for all beekeepers but can be controlled by various methods if nipped in the bud for which the seven-day inspection provides.

Alas, on their return the prof found that his prize Queen had swarmed taking all the prime workers with her. He had reconciled himself to this minor tragedy until he heard on the grapevine that Donald had been telling his mates in his cups that he had "*got one over the dotty prof*" and now had the best Queen he had ever seen and was proposing to cross breed with her to make the best honey in the Highlands. He was also claiming to have lured the swarm over to his land by use of a bait trap (a legitimate device used to recover swarms by tempting them to move with tasty bee fodder).

The prof was duly incensed and accosted Donald who denied everything and rudely retorted that in any event its finders keepers in the swarming season. The prof consulted a retired law professor friend who lives in a black house at the head of the nearby sealoch and he launched an action in the Kinlochsporran Sheriff court on the basis of Conversion, Enticement and Theft. The Sheriff ordered a mediation with both parties agreeing to take part although Donald was heard to mutter that he was only doing it to please the Sheriff and would never give up the best Queen he had ever seen. Donald's defence includes accusing the prof of trespass on his land and hive to which the prof retorts with his claim of right to roam and the Roman law concept of being in hot pursuit, which his retired law professor felt could just be argued and worth putting in "*to put the ants in Donald's pants*".

The Questions

1. The prof wants to ensure that the hive with its Queen is brought to the mediation as he is convinced that the Queen will recognise him thereby establishing one of the main planks of his case. When told of this by me Donald guffawed and declared "*Dinna be fanciful lass*". Do I ignore this and advise him to bring along the 'evidence' and inform the prof accordingly?
2. I am indeed a lass but do not care to be referred to as such and would rather be designated according to my chosen pronoun of they/them. Should I insist on this or is it likely to offend or annoy Donald and cause difficulties?
3. It is known that the Sheriff's wife regularly attends the farmers market and has been known to purchase a jar or so of the prof's honey. If the mediation fails and she does so prior to the hearing before her husband, should Esmerelda, who attends the stall there, wave aside her proffered payment with a disarming smile?

4. In view of this feature of the Sheriff probably consuming the prof's produce with his breakfast toast or in his hot toddy, should I apply to the Court that the Sheriff recuses himself and have the case removed to the neighbouring Sheriffdom which, however, is some distance away and would cause considerable inconvenience to all parties?
5. The retired law professor who advised the prof, and who is also a keen potential beekeeper hoping to set up a Black Bee colony in his remote black house near the prof's croft, is keen to attend any mediation and offer his extensive experience as well as moral support. It should be said in this regard that the prof has openly declared that any new Black Bee colony would be bred from the prize Queen if recovered.

Answers

1. It is fully understandable that the prof wants the colony to be present, especially if he is convinced that the Queen will recognise him. I am told by a beekeeper friend that this is unlikely but, as they say, they are not former professors of Anthropomorphism. However, it is clear that Donald will not agree and hence the mediation may break down before it starts. In any event a mediation is not the place for evidence to be tested. That is for the Sheriff if the mediation fails. It would be a logistical nightmare to cope with a colony of perhaps 50,000 bees and their Queen. Let the Sheriff's Officer sort that one out if it comes to it!
2. My sympathies as to your nomenclature, but you are in Kinlochsporran and I suspect will remain a lass there until you leave and move into the big wide world. Do not let semantics prevent you from performing your duties as a mediator. If you made a fuss about it, I fear that Donald might disappear to the snug with his mates. Swallow the pill my dear is the well-meaning advice from your Auntie Minerva.
3. Esmerelda should by all means smile as she serves the Sheriff's wife but make sure she accepts the payment offered. An inducement to a Sheriff is a heinous crime as the prof's pal will remind him. The position might be different if they are both part of a bridge circle and Esmerelda is giving "*just a wee gift of my husband's honey*" to the whole circle as may the ministers wife when she likewise distributes her blackcurrant jam.
4. No. Don't mention it or take any action. If anyone should take any steps it would be the Sheriff himself (it is understood the Sheriff is a male). And if he does it would probably be with a smile and a rhetorical question that no one objects if I have tasted the honey of both parties, do they? It would be churlish for either party to object, and I am pretty confident that even Donald would let it be
5. I would strongly advise that the retired law bod be politely asked to stand aside at least for the mediation. He can be promised an appearance if the mediation fails, and the case has to go before the Sheriff. He would undoubtedly find it difficult to remain solely as a friend to give moral support and it is unlikely that Donald would agree which is a necessity for third parties to attend. Alternatively, he might insist that his drinking pals from the snug also attend which would not be a good idea!

An interesting mediation indeed dear Worried. I wish you luck. In the event of it being a successful mediation and if the prof offered you a jar of honey, I can see no reason why you should not take it. I look forward to hearing how it goes.

Photo by James Lee on Unsplash

If readers have any other questions, please direct them to:

Aunt Minerva's Agony Column, Mediation Matters!

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please email mediationclinic@strath.ac.uk

Mediation Clinic
University of Strathclyde Law School
Level 3, Lord Hope Building
141 St James Road
Glasgow G4 0LS
Email: mediationclinic@strath.ac.uk