

# Professional development through reflective practice

By Mieke Brandon<sup>1</sup>

---

## Abstract

*Reflective practice assists mediators to personally and professionally develop, to work towards the highest standards of practice and potentially gain 'artistry'. Through professional training and practical experience, mediators must be able to achieve a basic standard that can be further developed into professional excellence. They need to build a body of knowledge and skills together with learning from their experience through processes of reflection. To achieve this, mediators must consider reviewing their own ongoing theory of practice crucial to their growth and competence in whichever process they offer. This article describes reflective practice and its goals for the development of self-reflection, professional development and for some reaching mastery in providing dispute resolution processes that match the parties' needs.*

-----

## The learning cycle

Participants in mediation training courses are usually (1) firstly unconsciously incompetent, as they do not know what they do or don't know about the art and science of mediation. As they listen and practice the theory and application of the skills, they become (2) consciously incompetent, because they discover how much there is to learn and how much they do not know.<sup>2</sup> This sense of consciously being incompetent lingers until they have done a few mediations and have received positive feedback from employers, parties and peers about their work. Many mediators stay at level (3) of conscious competence and very few mediators make it to this fourth level of becoming (4) unconsciously competent, what Young calls 'master mediators'.<sup>3</sup>

## Professional development

Professional development as a mediator starts with 'doing'<sup>4</sup>, which is applying the learned skills from the training and practicing this according to the ethical guidelines proscribed in the mediator's professional

---

<sup>1</sup> Mieke Brandon BA MSc(App) is a registered FDRP; accredited under the NMAS; self-employed DR consultant, trainer, coach, supervisor, assessor and author of many articles. She co-authored with Linda Fisher, *Mediating with Families* (3rd ed. Thomson Reuters, 2012) and with Leigh Robertson, *Conflict and Dispute Resolution* (Oxford University Press, 2007). Some of the information in this article is drawn from Chapter 12 of this text used with permission.

<sup>2</sup> Paula Young, 'Consciously Incompetent: A Mediator's Cycle of Learning' (Dec 2003) <<http://www.mediate.com/articles/young10.cfm>> (accessed 25 Sep 2017).

<sup>3</sup> Young, above n 2, 1.

<sup>4</sup> Daniel Bowling and David Hoffman, 'Bringing Peace into the Room: The Personal Qualities of the Mediator and Their Impact on the Mediation' (2000) 16(1) *Negotiation Journal* 5, 14.

role. The next stage is having a clear sense of how to expand what is known. Bowling describes the third stage as 'being', which means being aware of who we are, and our personal qualities.<sup>5</sup> The qualities that are most mentioned are: empathy, presence, genuineness, authenticity, connection, compassion, acknowledgement, understanding, engagement, and emotional intelligence so parties feel heard and valued.<sup>6</sup> It is suggested that the personal qualities of a mediator are perhaps more important than any techniques mediators have been taught. Conducting mediations is not for the faint hearted.<sup>7</sup> Practicing mediators, in their role, need to accept and feel comfortable with conflict and the expression of high emotions. They need to be able to tolerate ambiguity and contradictions, be omnipartial, have self-awareness and be disinterested in the outcome. They also need to be seen to be patient, even-handed, impartial, fair, respectful, trustworthy, intuitive, curious, and ethical. At the same time, mediators must be self-aware, authentic and responsive to the parties' interests.<sup>8</sup>

Systemic theory has helped us to understand how, in the broader context, relationships are reciprocally influential, as certain patterns of behaviour in interactions can be observed that are functional or dysfunctional, creating misunderstandings or defensive reactions. Aspects of how the self is used show in our:

- responses to conflict and high emotion;
- interpersonal communication style and the effect on others;
- strengths and limitations of handling informal or formal dispute resolution processes; and
- boundaries of our role as mediators.<sup>9</sup>

While the parties are often in a communication pattern of 'reactivity' with each other, it is important for the mediator not to get their 'buttons pushed'<sup>10</sup> and/or thinking there is a 'victim and a villain' in the scenario. In many cases one party may be devastated and the other has moved on. For example in a family law matter, or a personal injury matter where one party is claiming damages from the other, or an employment matter where a worker seeks reinstatement as a result of an unfair dismissal claim. Our objectivity and detachment from 'being swept away by the drama' is vital so the mediator does not begin to over- or under function as a result of their anxiety.<sup>11</sup>

---

<sup>5</sup> Bowling and Hoffman, above n 4, 14.

<sup>6</sup> Helen Collins, 'The most important personal qualities a mediator needs' (Feb 2005) <[https://icfml.files.wordpress.com/2014/11/the20mostimportantpersonalqualitiesamediatorneeds\\_collins2005.pdf](https://icfml.files.wordpress.com/2014/11/the20mostimportantpersonalqualitiesamediatorneeds_collins2005.pdf)> (accessed 25 Sep 2017).

<sup>7</sup> Many mediators in organisations have regular individual and/or peer supervision for discovering one's strengths on reflection and areas for professional development, with a focus on wellness to minimise vicarious trauma or burn out. These opportunities may not be as readily available and/or used by private practitioners, although private supervisors and membership organisations offer such reflective processes as well.

<sup>8</sup> Louise Phipps Senft, 'Mediator Excellence and Self-Awareness' (Dec 2011) <<http://www.mediate.com/articles/PhippsSenftL1.cfm>> (accessed 25 Sep 2017).

<sup>9</sup> Mieke Brandon, 'REFLECTION AND SELF AWARENESS': "if you don't know your stuff you will get caught in your clients' stuff and that will create more stuff", (2013) 37 Dispute Resolution Centre News, Paper 41. <<http://epublications.bond.edu.au/drcn/41>>; See also David A Hoffman and Richard N Wolman, 'Mediation As A Spiritual Practice' (Jan 2011) <<http://www.mediate.com/articles/HoffmanWolman.cfm?nl=300>> (both accessed 25 Sep 2017).

<sup>10</sup> See 'hot buttons' <<http://www.convirgente.com/hotbuttons.aspx?tabid=2260&code=en>> (accessed 25 Sep 2017).

<sup>11</sup> Wayne F Regina, *Applying Family Systems Theory to Mediation* (University Press of America, Inc., New York, 2011) 120.

## Reflection

Reflection offers mediators a process for learning how to learn about their practice. In this regard, self-reflection allows a re-evaluation of the experience, through linking one's thoughts, feelings and actions in response to what the participants were doing, either during a session or afterwards.<sup>12</sup>

Lang and Taylor<sup>13</sup> explain that reflection is the process by which professionals link their experiences, events and situations of practice and then attempt to make sense of them in light of the professional understanding of relevant theory. They identify 'reflection in action' as the reflective process that occurs during practice and 'reflection on action', which occurs after the experience.<sup>14</sup>

Rather than being skilled mechanics trying out one tool after another without understanding what tool would be appropriate for the task,<sup>15</sup> mediators need to make theoretical principles of practice the foundation upon which to base an assessment of a conflict situation and design an appropriate intervention accordingly. Theories should be evaluated on the basis of utility as certain concepts will speak to one mediator and not to another.<sup>16</sup> The more diagnostic models and tools mediators have, the more likely it is that they will understand any given dispute and intervene effectively.<sup>17</sup> How underlying emotions influence the discussions, negotiations and outcome in dispute resolution processes, is particularly important to understand.<sup>18</sup>

Mediators, like all adult learners, have different ways of accessing information, some recall certain memorable incidents, and others ruminate on how they can improve their practice or put specific time aside and formally structure their reflections.<sup>19</sup> Ideally, reflection in and on practice needs to become integrated into the practice of dispute resolution across the spectrum. The following provides a range of ways of encouraging reflective practice.

## Concepts of reflective practice

Bowling<sup>20</sup> suggests that reflective practices and mindfulness are 'synergistic'. Bowling recommends finding a quiet space to recall a specific mediation event, listen and re-count the story that unfolds (by oneself or with a colleague), notice and learn from when you were 'present' or felt distracted, plan and record what you were satisfied with together with actions to overcome what you failed to employ (or forgot). Then, you should consider what you would repeat and what you would change. Your action plan can be revised until satisfied that it is steering your development as a mediator thematically.<sup>21</sup>

---

<sup>12</sup> Michael D Lang and Alison Taylor, *The Making of a Mediator* (Jossey-Bass, San Francisco, 2000) 19.

<sup>13</sup> Lang and Taylor, above n 12, 69-91.

<sup>14</sup> Lang and Taylor, above n 12, 117.

<sup>15</sup> Michael Lang, 'Becoming Reflective Practitioners' (Consensus 1998, Jul 2000) <<http://www.mediate.com/articles/reflect.cfm>> (accessed 25 Sep 2017).

<sup>16</sup> Gary T Furlong, 'Conflict Resolution Toolbox: Introduction' (Aug 2005) <<http://www.mediate.com/articles/furlong2.cfm>> 1-13 at 10 (accessed 25 Sep 2017).

<sup>17</sup> Furlong, above n 16, 10.

<sup>18</sup> See Daniel Shapiro, 'How do you handle emotions in negotiation?' <<https://www.youtube.com/watch?v=xBu9aSR3q7A>>; See also Understanding David Rock's SCARF Model <[https://conference.iste.org/uploads/ISTE2016/HANDOUTS/KEY\\_100525149/understandingtheSCARFmodel.pdf](https://conference.iste.org/uploads/ISTE2016/HANDOUTS/KEY_100525149/understandingtheSCARFmodel.pdf)> (both accessed 25 Sep 2017).

<sup>19</sup> Nan Waller Burnett, 'Master Practitioner Series: The Reflective Brain' (2012) <[http://www.disputepro.com/files/The\\_Reflective\\_Brain.pdf](http://www.disputepro.com/files/The_Reflective_Brain.pdf)> (accessed 25 Sep 2017).

<sup>20</sup> Daniel Bowling, 'Who am I as a Mediator?' (Fall 2005) *ACResolution*, 14-15.

<sup>21</sup> Bowling, above n 20, 14.

Fox and Gafni<sup>22</sup> state that newer mediators in practice regularly reach a decision point in a mediation in which they have to ‘engage their minds’ review the knowledge gained from their training and ‘think through’ the best next move to make, in contrast to ‘master practitioners’ who ‘relax their minds’, listen into what they call the force field, and ‘perceive what is needed’.<sup>23</sup> Mediators, who can feel the force, ‘intuit that it is time to take a break, to encourage an apology, to offer an analysis of liability and damages, or to initiate some other kind of intervention’.<sup>24</sup>

Fisher<sup>25</sup> contrasts mindfulness ‘a heightened state of awareness of both self and environment’ with mindlessness, which includes mediators becoming model bound, having personal goals about their success rate and making assumptions about what the dispute is about and whether emotions are appropriate. He recommends that it helps to firstly stop what you are doing, secondly take a deep breath, and to thirdly observe bodily sensations and mental activity, before proceeding which helps to become mindful in the moment. This state of awareness helps to reduce reactivity and enhances the mediator’s ability to fully connect with the parties.<sup>26</sup>

Bronson<sup>27</sup> promotes reflection through using a self-assessment tool which links the mediator’s presence and ethical behaviour as fundamental attributes with their knowledge and skill. In each mediation process there is a unique combination of the mediator and parties working together to understand and make decisions regarding a specific dispute at a particular moment in time.<sup>28</sup> The whole case needs to be considered and addressed in a process of reflection, as it combines the parties’ expectations, mediator suitability, the setting, and time frames for interventions.<sup>29</sup>

In reflecting, we should recall a key intervention we made and why, as this helps us to reflect on the appropriateness of our actions, our creativity, and whether we added value.<sup>30</sup>

When the work gets easier and mediators take on a range of disputes and disputants without fearing a disaster or having a stake in the outcome, mentoring, teaching and presenting at conferences, and perhaps even publishing and training other mediators, mediators become (3) consciously competent. As mediators continue to learn from different teachers, trainers and mentors who bring different theories and practice applications, mediators will continue to experience the cycle of what mediators know now, what they do not know now, what there is still to learn and what they do not know yet. As life-long learners and experience in dispute resolution processes grows, there is still much to discover and this will continue for many years into the future.

This growth, as ‘conflict resolvers’, suggests Mayer, ‘requires us to increase our sophistication in thinking and applying our concepts in our practical efforts through re-evaluating this thinking by engaging in reflective practice to gain the characteristics of advanced practitioners’.<sup>31</sup>

---

<sup>22</sup> Erica A Fox and Marc Gafni, ‘Seeing with New Eyes’ (Fall 2005) *ACResolution*, 22-25 at 24.

<sup>23</sup> Fox and Gafni, above n 22, 24.

<sup>24</sup> Fox and Gafni, above n 22, 25.

<sup>25</sup> Tom Fisher, ‘Beginner’s mind, cultivating mediator mindfulness’ (Fall 2005) *ACResolution*, 29.

<sup>26</sup> Fisher, above n 25, 29.

<sup>27</sup> Sue Bronson, ‘Improving Mediator Competence Through Self-Assessment’ (Winter 2000) 18(2) *Mediation Quarterly* 171 at 171-175.

<sup>28</sup> Bronson, above n 27, 117.

<sup>29</sup> Sue Bronson, et al., ‘Self-Assessment Tool for Mediators, Wisconsin Association of Mediators Peer Support Team of the Standards and Ethics Committee’ (Madison, USA, 1998) 1-16.

<sup>30</sup> Judy Dell and Alison Cotter, ‘Reaching for the stars: Encouraging reflection on practice: Strengthening Mediation Practice: Reflective Practice and Assessment’ (2012) <<http://www.mediationconference.com.au/wp-content/uploads/2012-conference-papers/Reaching%20for%20the%20stars%20-%20Dell%26Cotter.pdf>> (accessed 25 Sep 2017).

<sup>31</sup> Bernard S Mayer, *The Dynamics of Conflict Resolution* (Jossey-Bass, San Francisco, 2000) 239.

## Self-awareness

The five dimensions of emotional intelligence consisting of three personal competencies described by Goleman<sup>32</sup> as self-awareness, self-regulation and motivation, combined with the social competencies of empathy and other social skills, assist mediators to handle challenging situations with diplomacy and tact. Bjercknes and Paranaica<sup>33</sup> refer to the level of optimism or pessimism that prevents mediators from giving up and provides them with the motivation for starting again and again with new parties in dispute. The key to motivation comes from understanding successes in the same terms as the reasons for setbacks, by placing appropriate responsibility upon oneself and things external to us.

Mediators' awareness of the emotions with which they enter mediation, the feelings they have about the subject of the dispute, the emotional reactions that the mediation generates are all pertinent to how the mediation proceeds.<sup>34</sup> Being open to learning about who we are, being motivated to reflect on our role as mediators, and taking into account how we affect others becomes essential to our work and life.

## Intuition and gut feeling

Many mediators explain their work with parties as 'working intuitively'. Intuition can be triggered and results in an instinctive response to the dynamics in the room or what is being said or what is not spoken of. The mediator's intuitive knowledge comes from their immediate experience. Their interventions appear from automatic spontaneity. They often cannot express this in precise words as their intuition provided them with a certain truth. Becoming aware of this source of knowledge, learning to understand and to trust it will develop over time and allowing oneself to do some things by guesswork.

Formal professional training cannot offer the kinds of experience critical for the training of effective mediators according to Benjamin.<sup>35</sup> 'No theory can replace gut instinct' Benjamin states, the heart of practice is not technical expertise, but gut instinct and intuition. He urges that this needs to be developed by mediators as 'the best professional practitioners in any field come to appreciate the value of tacit knowing, hunches and intuitive understanding'.<sup>36</sup>

## Improvisation and spontaneity

Gladwell<sup>37</sup> describes how people can think without thinking and in a 'blink' of a moment come up with amazing ideas and make sophisticated decisions on the spur of the moment. Gladwell suggests that while the ideas or decisions seem chaotic and random, and without the benefit of any kind of script or plot, the improvisation is actually an art form and has its own rules.

It may assist mediators to think that when someone or issues get challenging, consider this as an 'offer' as this changes the perspective.<sup>38</sup> To receive these situations as 'offers', McWalters suggests that mediators,

---

<sup>32</sup> Daniel Goleman, *Working with Emotional Intelligence* (Bantam Books, New York, 1998) 317.

<sup>33</sup> Daniel Bjercknes and Kristine Paranaica, 'Training Emotional Intelligence For Conflict Resolution Practitioners' (Jul 2002), <<http://mediate.com/articles/bjercknes.cfm> pp 1-4> (accessed 25 Sep 2017).

<sup>34</sup> Lori S Schreier, 'Emotional Intelligence and Mediation Training' (Fall 2002) 20(1) *Conflict Resolution Quarterly* 99 at 101.

<sup>35</sup> Robert Benjamin, 'Gut Instinct: A Mediator Prepares' (Apr 2002) <<http://www.mediate.com/articles/benjamin6.cfm>>; See also Robert Benjamin, 'The Natural Mediator' (2004) <<http://www.mediate.com/articles/benjamin1.cfm>> (both accessed 25 Sep 2017).

<sup>36</sup> Benjamin, above n 35.

<sup>37</sup> Malcolm Gladwell, *Blink: The Power of Thinking without Thinking* (Little Brown & Co, New York, 2005) p 113.

<sup>38</sup> Viv McWalters, 'Improvised facilitation-the paradox of being prepared to be spontaneous' (2006) 8(6) *ADR Bulletin*, 104-106.

‘need to be present with all their senses, listening to all and being aware of what is happening in the room before acting to do something’.

## Developing artistry in practice

The idea of artistry in mediation, can be achieved through a process of reflection before, during and after a session when mediators reflect through ‘formulation’, using their ‘constellation of theories’.<sup>39</sup> Formulation is done through putting together a) the characteristics of the disputants, b) the context and type of dispute, and c) the methodology of mediation that would be most helpful. Such formulation is speculative, but never true or false. The formulation takes into account underlying power dynamics, and areas of conflict such as structural, data, relationship, and value causes of conflict. Formulations also determine the interests of all parties and any legal aspects of the dispute.<sup>40</sup>

## Reflecting in action

Reflection in action happens when a mediator watches, hears and analyses what they are doing during a mediation session. By paying particular attention to critical moments and making informed choices about what to ignore, what to address next, or what intervention will make a difference, mediators learn from the experience in action.<sup>41</sup>

Most mediators have learned a number of models and develop different styles and approaches according to their personalities. What different mediators demonstrate will vary according to the circumstances and their framework based on their values, personal beliefs, influences from their background and training and the theories studied. It is thought that mediators with a settlement focused framework and knowledge about the content of the dispute will most likely be more evaluative than facilitative. Mediators with a bias for the development of improved relationships in a dispute will possibly be more transformative and therapeutic in their approach.

Mediators who have a framework that suggests that their role is purely to facilitate the discussions between the disputing parties will be more facilitative focused on parties’ self-determination.<sup>42</sup> When a certain theory no longer completely fits the mediator’s professional development or the types of disputes the mediator is currently involved in, they may adopt, adapt or synthesise a range of other theories and most likely apply their techniques and interventions accordingly for the benefit of the parties.

## Reflecting on action

Lang and Taylor<sup>43</sup> state that by reflecting on practice, mediators can come to fully know what they know, such as their accumulated personal knowledge and understanding, which includes facts, models, theories, and core beliefs forming their ‘constellation of theories’. These are all interconnected with the field of conflict resolution. The constellation includes dispute resolution processes, conflict, communication and negotiation theories, and ideas about the nature of mankind, ethical practice, laws and other factors that affect the dispute resolution practitioners’ work.

---

<sup>39</sup> Lang and Taylor, above n 12, 69-91.

<sup>40</sup> Lang and Taylor above n 12, 69-91.

<sup>41</sup> Lang and Taylor above n 12, 93-118.

<sup>42</sup> See Linda Fisher and Mieke Brandon, *Mediating with Families* (3<sup>rd</sup> ed. Thomson Reuters, Sydney, 2012) 36-39 for a range of frameworks.

<sup>43</sup> Lang and Taylor, above n 12, 93-118.

To achieve an acceptable standard of practice, mediators need to work congruently, so that their beliefs and practice approach fall into line with what they do. This is a reflection on action and for this purpose supervision is invaluable.<sup>44</sup>

## Reflection on reflection

In reviewing one's abilities and challenges as a result of reflexive journaling, debriefing, informal and formal supervision a 'reflective experience-on-reflection is created'.<sup>45</sup> To foster this growth in our learning, as 'conflict resolvers', suggests Mayer, 'requires us to increase our sophistication in thinking and applying our concepts in our practical efforts through re-evaluating this thinking by engaging in reflective practice to gain the characteristics of advanced practitioners'.<sup>46</sup>

To achieve 'mastery'<sup>47</sup> in practice mediators need to have a combination of psychological, intellectual and spiritual qualities as mediation is less about what mediators do and more about who they are.<sup>48</sup>

## Professionalism in dispute resolution

Knowing precisely what dispute resolution services will be rendered, and the required skill set to deliver that service, is necessary to target the training and qualifications that will underpin credentialing.<sup>49</sup> Ideally mediators need to be able to describe to their clients and colleagues the details of their process and the range of interventions and techniques they use for quality assurance so that the parties are clear about what the mediator has to offer them.<sup>50</sup>

*'What disputants need from conflict resolvers is more than process: they need understanding, engagement, creativity, strength, wisdom, strategic thinking, confrontation, patience, encouragement, humour, courage, and a host of other qualities that are not only about process or substance.'*<sup>51</sup>

## Conclusion

Mediators can use many different approaches along the continuum of dispute resolution processes and practices, from arbitration at one end to self-determination at the other. When they work in one of these processes, it is important for mediators to clearly articulate their practice approach to that particular practice area. Many times, preparation may be extremely useful and from time to time letting go of the

---

<sup>44</sup> See Fredrike Bannink, *Handbook of Positive Supervision* (Hogrefe, Ashland, OH, 2015); See also 'What does "good" professional supervision look like?' Some thoughts from experienced supervisors LEADR and IAMA (2015) <<https://www.resolution.institute/documents/item/1372>> (accessed 25 Sep 2017).

<sup>45</sup> Samantha Hardy, "Teaching Mediation as Reflective Practice"(2009) 25(3) *Negotiation Journal* 385 at 388 <<https://researchonline.jcu.edu.au/15882/>> (29 May 2018).

<sup>46</sup> Bernard S Mayer, *The Dynamics of Conflict Resolution* (Jossey-Bass, San Francisco, 2000) 239.

<sup>47</sup> Daniel Bowling and David Hoffman, 'Bringing Peace into the Room: The Personal Qualities of the Mediator and Their Impact on the Mediation' (2000) 16(1) *Negotiation Journal* 5 at 6: <[http://media.wiley.com/product\\_data/excerpt/01/07879685/0787968501.pdf](http://media.wiley.com/product_data/excerpt/01/07879685/0787968501.pdf)> (29 May 2018).

<sup>48</sup> Love and Kovach cited in Currie, C. M., *Mediating Off the Grid*, (2004) 7. <<http://www.mediate.com/articles/currieC4.cfm>> (accessed 25 Sep 2017).

<sup>49</sup> Love and Kovach cited in Currie, C. M., *Mediating Off the Grid*, (2004) 7. <<http://www.mediate.com/articles/currieC4.cfm>> (accessed 25 Sep 2017).

<sup>50</sup> Charkoudian L, De Ritis C, R Buck R and Wilson CL, 'Mediation by Any Other Name would Smell as Sweet- or Would it? The Struggle to Define Mediation and the Various Approaches' (2009) 26(3) *Conflict Resolution Quarterly* 293 at 313.

<sup>51</sup> Bernard S Mayer, *Beyond neutrality: confronting the crisis in conflict resolution* (Jossey-Bass, San Francisco, 2004) 146.

plan and improvise is just as important. Characteristics of mediators and facilitators working spontaneously, by improvising, or intuitively, and by gut feelings will become evident in the discussions about their work, which often cannot be verified by objective standards. The growing and diverse field of mediation and the flexible concept of the mediator's role must, however, meet the challenges of professionalism according to ethical practice obligations and responsibilities, national standards, accreditation, codes of conduct and grievance processing mechanisms. Professional development through reflective practice is one way to achieve this.