

## EVERYONE CAN WIN audio script edition

### SKILL 11: INTRODUCTION TO MEDIATION - PART II

#### NAVIGATING THE TOUGH STUFF

##### Podcast time codes:

Mins: Secs	Topic
3:19	Navigating problems before beginning
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When others are in conflict, and you're trying to mediate, it can be tough. There's plenty that can go wrong. How can you turn it around and get this ship out of troubled waters?

This is the second part of skill number 11, An introduction to mediation, Navigating the tough stuff.

It's from the book *Everyone can Win*, about handling conflict constructively. Now we're going to look deeper into this "Introduction to mediation" and see how to troubleshoot the problems that often arise, and how to redirect the mediation to get it back on track.

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##### Here's a modern fable ...

A desert sheik died bequeathing his nineteen camels to his three sons

- leaving his first son half his camels
- his second son a quarter of his camels
- and his third son a fifth of his camels

No-one wanted to carve up the camels, so the three sons invited a mediator, who arrived on *his* camel. The mediator assessed the situation and lent this camel to the estate. There were now twenty camels.



- The first son received his half (ten camels)
- the second son his quarter (which was five camels)
- and the third son got his fifth (four camels).

This added up to the nineteen camels left in the estate, leaving the mediator with the camel he came with. He mounted it and rode away.

Had you been the mediator would you have felt that justice was done? Or would you have asked awkward questions like: What about the sheik's daughters...

At all stages of a mediation - the beginning, the middle and the end - we savvy mediators need to have our dancing shoes on: listening intently to the content and tone of the interactions, and ever ready to change the choreography, quickly reshaping the conversation whenever it starts to go off track.

We're always mentally checking if the current conversation is heading the participants to constructive problem-solving and we're ready to intervene if it isn't. We have a clear eye on the stages of the process and the goals of each stage. We live by the sage advice: "Unless you change direction, you're going to end up where you're headed". The intent of this section is to add to your repertoire of mediating dance steps.

## **NAVIGATING PROBLEMS BEFORE BEGINNING A MEDIATION SESSION**

Consider:

- Are the right people in the room? Is there someone else with a strong interest in the outcome? Maybe meet with them prior to the session. Do they need to attend or express their support and encouragement?
- Consider each person's power in the mediation. Are they reasonably matched? Hierarchic power needs to be reasonably balanced, or at least addressed. How significant is any power imbalance? Maybe one party could and perhaps should have a support person in the room. Sometimes they'll need a translator. You'll need to get everyone's agreement for this extra person to attend and be clear that they are not there to *participate!* And, no Rescuers allowed! If having a support person won't redress a major power imbalance, the situation probably needs a trained mediator or a different process altogether.



- Where are you in this hierarchy? Are you neutral or outside it? If you do wield considerable power within this group, you will need to put your authority to one side while you mediate. On the other hand, you yourself may not have enough authority. Will you be able to gain sufficient respect from each of the parties so that you can steer the mediation effectively?
- A preparatory meeting is the time for them to blow off steam privately, blame all they want. And you will prepare them, kindly, to expect your intervention if they do that in the room.
- You can also help them to get clear about the advantages to them of fixing the problem.

Having them clear and motivated will pay off later.

Let's turn now to issues that might require your mediating intervention while you are

### **NAVIGATING EARLY IN THE SESSION**

**Perhaps, the problem is ...** Mudslinging, accusations, or bringing up the past.

Here's your manoeuvre or

**Tip:** Take strong control at the beginning, you can ease up later. Emphasise that a mediation session looks to the future and how to make things work better there, the past is past. You might need to remind participants of this and stop them short if they're revisiting old resentments. Tell them that while some talk about the past will be necessary, it's just to clear up misunderstandings or to work out what needs changing in the future.

**Here's another problem:** you've asked them to say what the problem is, but people can't see beyond these difficulties.

**Tip:** Ask each party to create their vision of the future with the outcome they want. Ask:

‘How would you like it to be?’ or

‘What would it look like if it was all working well?’

**Here's another tip:** Action oriented questions might help the parties see forward. Questions can include:

‘Where do we go from here?’ or perhaps



‘What can you do towards getting the outcome you want?’

**Problem:** Someone is harping on about all the things they don’t want.

**Tip:** Ask them to say what they *do* want.

**Problem:** One person is using their more powerful situation for an unfair advantage, and the other person feels disempowered and too intimidated to participate effectively. You cannot become Rescuer here.

**Tip:** What you can do as mediator is to ensure that everyone sticks to the ground rules. Equalise times and ‘traffic cop’ the communication – firm and fair. If this doesn’t work, call a halt, ideally early in the piece before any unfair action plans have been set in place. This particular mediation project is probably not for you.

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### Here are some problems that can arise while you are NAVIGATING THE MIDDLE OF A MEDIATION

The conversation isn’t really moving forward towards resolution. There is a whole lot of conflict antidotes you can use. I’ll run through some of them here.

### CONFLICT ANTIDOTES



<i>They say:</i>	<i>You ask:</i>
I’m right. They’re wrong.	So, your point of view differs from theirs?
I won’t ...	What would make you willing?
It’s a failure.	How could it work? What would save it or make it better?
I should/ought/must/have to ...	Try: Do you really want to?



They always ...	Always? Are there any circumstances where they don't? <i>Or</i> Can you give an example of when it really mattered to you?
I don't want ...	What <b>do</b> you want to happen?
I can't ...	You can't? Or you just can't see a way to? What happens if you do?
She would never ...	How can we find ways?
It's impossible.	If it <i>were</i> possible, what would it take?

What are you trying to do is to keep turning the conversation towards the positive, towards possibilities and away from the negative and away from judgements and closed doors.

If you have decided on meeting separately before the mediation or after an initial session, you could help them ventilate their tension and while alone together, use these antidotes to coach them on how to reframe some of their remarks. "If you say it that way, how are they likely to respond?" They're learning to anticipate the impact of their words.

Other problems can arise in the middle of a mediation as well.

**Problem:** Perhaps someone is assuming that they know the other person's motivations. They are saying things like "...doesn't care stuff about me" or "What they're doing is completely unfair."

**Tip:** monitor sweeping assumptions. They may or they may not be facts. If you can, help them get more particular and detailed, so that there's some real subject matter for a discussion on this. You might ask for instance:

'Tell me what you mean by *not caring* or *unfair*.'

**Another problem:** No one's talking.

**Tip:** Do allow some silences, even quite lengthy ones. They give people time to think and integrate ideas. But if they cannot speak in front of each other, you might need to offer to meet them separately.



**Problem:** Your participants seem to stir each other up every few sentences.

**Tip:** You may have to intervene frequently in such circumstances, taking firm charge of the process, like a traffic cop, with hand signals! Sometimes participants use words that inflame the conflict. If you have set up clear ground rules about attacking the problem not the person, you may need to remind participants what they have agreed to. Point out the impact of their remarks on the process, for example, increased tension, but do it kindly to help them save face. To encourage a more positive atmosphere, you may use questions to help them rephrase some of their statements, finding the true kernel within.

**Problem:** they keep focusing on who was to blame. I've found that never helps resolving conflicts very much at all.

**Tip:** You can convert it from "who" to "how" or "what". How it didn't work. What system failed? How did it escalate? You depersonalise it and put the real issue on the agenda.

**Another Problem:** the participants don't seem to be considering options that you can see would be very helpful.

**Tip:** You may offer them a suggestion if they are not able to come up with it in reasonable time. Present it as an option and not a direction; add it to their list. For example, 'I've also heard of a situation where they tried this. Is that relevant here?' Be careful that you don't usurp the participants' role as the problem-solvers.

**Problem:** What if someone storms out of the mediation?

**Tip:** You quickly call a tea break. Then find the person and say something like, 'We all have strong reactions sometimes. Can we go back and try again? Tea or coffee?' You might repeat your soothing statement about strong emotions at the start of the next session, so they feel less out on a limb. Make sure they know that anyone can call for a break whenever they need it. Calming down is better than leaving.

Try to *normalise* experiences that others seem to regard as extraordinary or outrageous. For example, one participant might accuse the other, 'You wouldn't even speak



to me!’ and you can explain, ‘It is not uncommon to need a cooling-off period where people don’t speak to each other.’

**New problem:** Your protagonists seem to have absolutely no empathy for each other.

**Tip:** You could give this a go. Ask the protagonists to picture a scenario that puts them in the other person’s shoes, or perhaps ask them to imagine a ‘What if...’ situation. Pose questions about what it would be like; invite them to reassess rigid or limited attitudes. “How would it be for you if you were criticised in front of your team?”

You can also try having each of them in turn ‘mirror’ back what they hear the other person say. And checking with the speaker if that is what they said. It ensures accurate listening and actually mouthing the words from the other side can sometimes work magic. Speaking from the opposite point of view, even for a moment, can break down rigid thinking. Sometimes the other side is actually making a concession, but the person cannot even hear that they are until they’re forced to repeat the words.

**Problem:** There are significant differences in values, personal styles or points of view between the participants and the more they talk, it only emphasises the split between them.

**The tip** here is to help them reassess how much the differences really matter. Clarify and validate the differences between them. For example, ‘To you, Jane, dress codes are very important, but John needs to express his individuality with his clothes’, ‘It’s quite understandable that after dinner, Mary’s first priority is to do the dishes while yours, Peter, is to relax.’ Or ‘I’ve noticed that you’re naturally reserved, Alison, while Sarah likes to be upfront. Could you both stretch your styles a bit to meet halfway?’ Sometimes people can do with a helping hand to value the otherness of people and respect their individual differences without trying to change them.

You can also find something they have in common, kids, sports, the place they work, and ask about it at the tea break, just to break the tension and remind them they’re still connected.

**Another problem:** The mediation is dragging on. People are distressed, and agreements aren’t close.



**Tip:** Offer breaks. When emotions run high it is good to call a cooling off period of perhaps ten or fifteen minutes so that each person can get out of the room or at least stop talking for a while. Whatever the emotional climate, if you've been meeting for more than an hour and a half then you'll all really appreciate a little time out. After the break you might remind them that resolving is in their own best interests and that's what they've both said they want.

**The problem:** Oh dear! It's proving to be a no-win situation! Sometimes by the time a mediator is approached, there's high animosity. Neither party wants the other to win. In fact, each wants the other party to be punished.

**Here's your tip:** Where outcomes please each of the parties, satisfaction has been balanced. However, where it is obvious that the parties only wish to punish each other, balanced dissatisfaction may be the only reasonable outcome - they're appeased, rather than pleased. Sometimes the most the mediator can hope for is to end up with both parties equally *dis*-satisfied with the settlement. As long as the other side is not doing too well either, the trade-offs each is required to make may just be acceptable. Such outcomes don't provide much fulfilment for the mediator, but as a last resort they may settle the problem and give both parties a chance to get on with their lives.

## NAVIGATING THE END OF A MEDIATION

You've reached **the end of the mediation time slot...**

**And there's a problem:** The mediation is going to need more than one session and there is the danger of momentum being lost.

**Tip:** Try setting homework tasks.

One clever mediator/family therapist, who was working with a dysfunctional family, including a withdrawn teenage girl, asked the girl to log the day, time and topic of each of her parents' arguments. The parents had their own tasks but they knew that they were being observed by their daughter. The task encouraged the girl to move out of her isolation and participate in the solution. By carrying out the task, she showed she was prepared to take part. What can your people go off and do that would help the situation?

**Here's another problem that might arise towards the end:** The agreements the participants are coming up with are wishy-washy – they don't seem to tackle the real





underlying issues or cannot be assessed objectively. They may be unprovable generalities such as: ‘You’ll be nicer,’ ‘You’ll show more respect,’ or ‘I’ll keep things tidier,’ and ‘We’ll catch up more.’

**The tip here is:** Make sure the agreements are specific, do-able and measurable. They could, for example, describe behaviours to be used in the future. For example, ‘You both will say “hello” when you arrive in the morning,’ ‘You’ll allow each other to finish speaking, before you have your say’ and ‘There won’t be anything left lying on the floor at bedtime.’

Compliance or non-compliance is then clear. To get there you can ask questions like:

‘How will you know when the agreement is being kept?’

‘What specifically would demonstrate to you that they are being more respectful?’

You might ask them to set up a yardstick to measure the changes: how often did the designated person put the garbage out without being reminded; how much time was needed to complete a job; the number of group lunches in a month.

Mediation is not a mysterious process, but as you can see there are extra skills needed in serious conflicts that are beyond the scope of the amateur. There will be times when YOU are in conflict, emotions are highly charged and your own problem-solving reaches an impasse. At these times bringing in a mediator may be your most constructive approach.

## **PROFESSIONAL MEDIATION SERVICES**

Mediation services are now widely offered. Professional mediators provide individuals and workplaces with a faster, more equitable and definitely cheaper alternative to traditional courtroom methods. The great advantage is that the decision-making still rests with the participants. You will have your say and control over what you agree to.

If you need to find a professional mediator or conflict counsellor, start with an internet search for ‘Mediators’ in your area. There are also some links on the Conflict Resolution Network website to organisations that mediate disputes in business.

A growing number of community care organisations, counselling centres and private legal practices have mediation available as part of their services.

In Australia, funded organisations with branches in most states include Community Justice Centres, and Relationships Australia. They commonly deal with personal, family and



neighbourhood disputes. The Family Law Courts in Australia usually require that couples use mediation before the court will formalise any arrangements.

The practice of professional mediation services is now widespread in many countries and still constantly growing. And this growth is being supported by dedicated and highly skilled people who see its enormous value in creating more peaceful communities.

Often, religious groups are leading the way by including mediation as one of the services that they offer. So consider those, particularly if some aspects of the problem involve religion.

Many professional organisations will offer a team of two or more mediators chosen for their expertise in the problem area or for their compatibility with the clients. There might be 'grievance officers' within your own organisation or an appropriate government department. Grievance officers are often mediators, trained to deal with inequality, harassment and other conflicts. Human Rights Commissions may provide another avenue for major workplace issues.

I want to talk for a moment about

## **MEDIATION TRAINING FOR YOUNG PEOPLE**

A simplified form of Mediation can be taught to children, like Jack in the story in the previous episode. Children even as young as seven can be taught how to mediate. And a number of schools regularly teach it to their students. Teaching all children how to negotiate with each other and how to mediate fights amongst their friends can vastly improve the whole school atmosphere. There's less bickering, threatening, teasing and violence. It's particularly helpful in schools with mixed communities of different cultural, ethnic and social backgrounds. It empowers the students themselves to handle most of their inevitable clashes without having to resort to an authority figure, such as a teacher, to settle disputes.

Just a couple of warnings, however. Bullying is not a suitable case for mediation. Whether physical or social, bullying involves power imbalances and victimizing. And that's outside the league of most youngsters. It requires a whole school approach and adults in authority to intervene.

Also, kids may not want to go to their same-age peers to resolve problems. They might not trust them sufficiently. But older students can become very skilful at resolving many problems amongst considerably younger students. Schools that have introduced



mediation and conflict resolution training programs have found that the training itself brings a significant boost in morale and a corresponding drop in disciplinary problems. It needs a supportive principal and it needs a teacher or counsellor who's passionate about the skills to act as co-ordinator. They will need lesson plans, suitable to the age group of children they're dealing with.

Maybe you can get such a training program happening in a school you're associated with. It's the way of the future. We need to train our children to become good conflict resolving citizens.

There are many situations where a skilled non-professional person, child or adult, has much to offer. Firstly, they are *there!* And the professional may never be invited in to deal with this one. Don't underestimate the power of good intention: holding the space so that two people can work out their difficulties in the presence of a caring third person. Sometimes it works miracles! Once it has been set up, the process can sometimes flow without you needing to intervene much at all.

The skills of conflict resolution underlie mediating interventions. One or two good questions that turn the energy around may be exactly what's needed. If you understand the steps and principles of mediation and have a handle on some basic manoeuvres, you can be a helpful force for positive change in your workplace and among your family and friends. Just know when to leave the really heavy stuff to the professionals. And stay away from disputes that could end up in court.

## **DEBRIEFING AFTER A MEDIATION**

If you do find yourself mediating or counselling somebody who is in conflict with other people, try to constantly improve your skills. A very good way to do it is by analysing what you've done after the event. What interventions did you make? How successful were they? How well did you listen, hold the space for them and were you a caring witness? Could you steer them through the steps of negotiating their problems together? Did you help them handle their own and the other people's emotions? Did you ask a good question that opened up the conversation? Were there some sticky moments where you missed an intervention that could have been helpful?



You can debrief alone and it's very helpful to debrief with a friend or colleague who is also skilled in this area; just be strictly aware of confidentiality issues by cloaking the specifics. Debriefing is not actually about the other people at that time. You're looking after you. Other people's strong emotions can really affect you. Debriefing is part of your self-care. Use it too to keep you focused on your learning path.

Have a look at the study materials for this episode and for the previous one on the podcast page of our website for some pointers on how to improve your skills.

## SUMMARY

In this part of our Introduction to Mediation, we've visited some useful troubleshooting tips. These include:

- If they start focusing on who was to blame, remind them that this meeting is all about how to make things work better in the future.
- If they can't see past their difficulties you might ask them to create a vision of the future with the outcomes they do want. Or perhaps ask them: 'Where do we go from here?'
- If one person is more powerful and the other is very intimidated, make sure both get to speak and police any sneering or name-calling. If that's not working, consider seriously whether the meeting ought to be adjourned and extra help brought in.
- If they don't seem to be considering all the options, you might throw in a suggestion. Just make sure they know it's as an option, not an instruction.
- If someone's making sweeping generalisations, ask for one or two specific examples.
- Use interventions that turn the conversation towards the positive, towards possibilities and away from the negative and away from judgements and closed doors.
- If no one is talking, allow the silence. But if the situation becomes intolerable, offer to meet each of them separately.



- If they can't stop stirring each other up, remind them to attack the problem, not the person. Try mapping.
- Remember the value of a timely tea break.
- People don't have to be on the same page about everything. Encourage them to understand and respect the other person's point of view.
- If despite best efforts, the solutions they come up with are pretty uninviting, perhaps the only fair result is that both sides are *equally* dissatisfied.
- If time's almost up, and you are nowhere near an agreement, perhaps set another meeting date and give them each some 'homework' to do in the meantime.
- Maybe they've got to some sort of agreement, but to you it seems a bit bland. Can you get them to add yardsticks that are specific, do-able and measurable?
- And just another warning: know when a particular issue is out of your league and a professional with expertise in the area should be called in.

You can download transcripts and explore the study notes for all the episodes there. Our headquarters are at [crnhq.org](http://crnhq.org). There's a free manual for trainers there too. And for ongoing reference, you might want to purchase the book, *Everyone Can Win*. It's the inspiration for this series.

In this episode, we've discussed mediation interventions that will help you through the difficult moments of a mediation session, so you can help others break through their issues to a new beginning. In our next and final session we take you higher in your overall practise of Conflict Resolution Skills. As you work with these skills, your point of view widens, you have more choices and better perspectives on yourself, other people and situations as a whole. Often your compassion sparks and inspires you in ways it hasn't before. You are gaining a broader perspective. The final episode is called Broadening Perspectives and will feed your soul for this important work. Thank you for staying with us to this final skill. So do press your 'Play' button for that one, sometime soon.

If you haven't done so already, subscribe to the series wherever you like listening to podcasts. And that means you'll be able to re-listen to a session the moment the issue it deals



with is right up there, in your face. And if you like what you're listening to, you could really help us spread the word if you leave us a review there. And let your friends know about it too. Some better conflict resolution skills might be just what the planet needs right now.

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