

Judicial Studies Board

Training Event

3rd October 2015

Family Mediation

Family Mediation NI

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UPDATES SINCE 3rd OCTOBER 2015

Publication of the Access to Justice Report – Part 2 – 3rd November 2015

<https://www.dojni.gov.uk/publications/access-justice-review-part-2-final-report>

"17.28 In all the circumstances I think the time has come for a major expansion of the provision of family mediation in Northern Ireland...For me, the dominant policy reason for promoting more ADR is that it produces better outcomes for clients. Savings will be a bonus." p153

"17.34 As a starting point for consultation, I recommend that public funding should be available only for family mediators who are trained to standards approved by Family Mediation Northern Ireland, the Family Mediation Council of England and Wales or the Mediators' Institute of Ireland." pp154-155



Joan Davis (far left) receiving an Award on behalf of FMNI at the Annual Conference of The Mediators' Institute of Ireland on 23rd October 2015. The all island Award recognised the contribution made by FMNI to the advancement of Family (Separating Couples) Mediation.

MEDIATION

**Knowledge
& Theory**

**Values &
Principles**

Skills

**Staged
Process**

MEDIATION

The unique recipe of mediation



MEDIATION OVERVIEW

Mediation Overview

Definitions of Mediation

Principles & Values

Role & Skills of the Mediator

The Staged Process

Positions, Interests & Needs

Different Process Models

The Spectrum of Conflict Interventions

Mediation & Families in Transitions

Outcomes

Evaluation

MEDIATION DEFINITIONS

“Mediation is a voluntary, confidential process that allows two or more disputing parties resolve their conflict in a mutually agreeable way with the help of a third party, a mediator.”

Stein, M. & Ernst, D. 1997

MEDIATION DEFINITIONS

“The process of mediation is the management of other people’s negotiations, and the mediator is the manager of the negotiations who organises the discussion of the issues to be resolved.”

John Haynes 1994

MEDIATION DEFINITIONS

Mediation - A process in which an impartial and a neutral third party facilitates communication and negotiation and promotes voluntary decision-making by the parties to prevent or resolve a dispute and to assist them to reach a mutually acceptable solution.

*The Mediators' Institute of Ireland
Code of Ethics & Practice 2009*

THE MEDIATOR

The Mediator - A trained and accredited professional who facilitates the process of mediation whilst acting at all times in accordance with the principles of impartiality, integrity, fairness and confidentiality, with respect for all parties involved in the mediation.

*The Mediators' Institute of Ireland
Code of Ethics & Practice 2009*

TASKS & SKILLS OF A MEDIATOR

- ✓ Facilitator: of Communication; of Capacity
- ✓ Power Balancing & Empowerment
- ✓ Appropriate Questioning & Reframing
- ✓ Empathic Listening
- ✓ Supportive Challenge “*the mirror*”
- ✓ Self- awareness & Self-reflection
- + Navigator / Project Manager
- + Information Provider / Educator
- + Agent for change?

Respect & Patience & Persistence & Curiosity & Congruence

MEDIATION PRINCIPLES & VALUES

- ✓ Self Determination
- ✓ Voluntary Participation
- ✓ Confidential - *with exceptions*
- ✓ Privileged
- ✓ Impartial - *'on everyone's side'*
- ✓ Neutral - *as to the outcome*
- ✓ Informed Decision Making
- + Child Focused

RESPECT

MEDIATION AS A STAGED PROCESS

Preparing for the Process

Engaging & Identifying Issues for Mediation

Information Gathering

Option Generation

Option Development

Negotiation

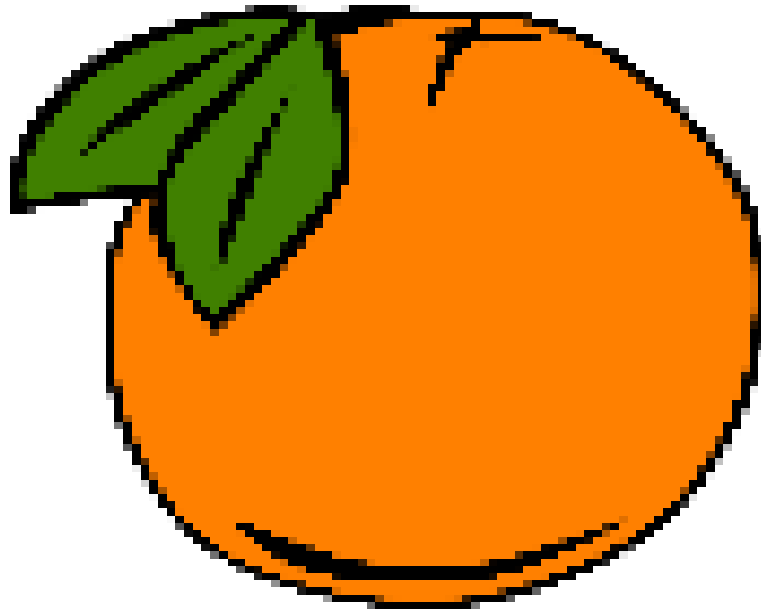
Outcome

Implementation

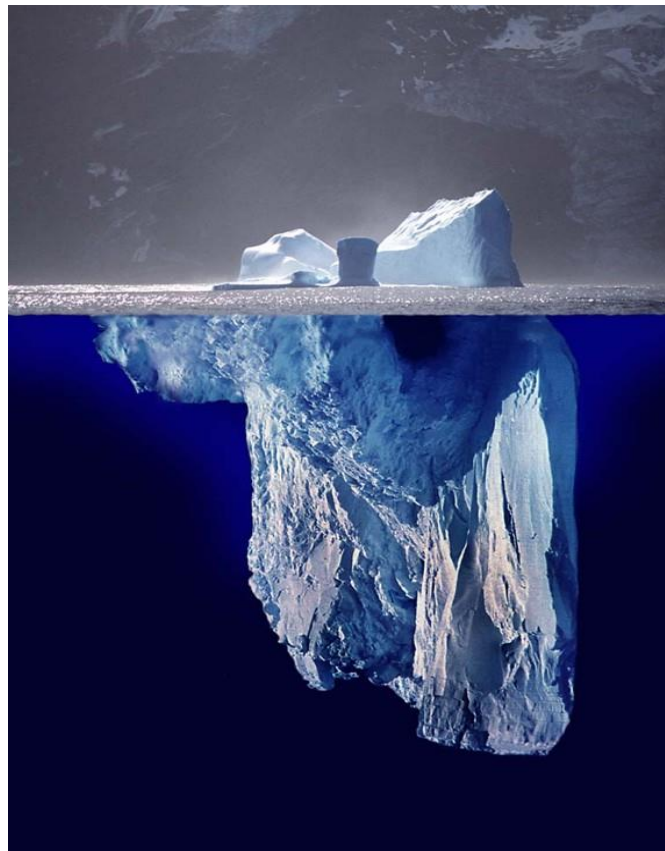
Review

POSITIONS, INTERESTS, NEEDS

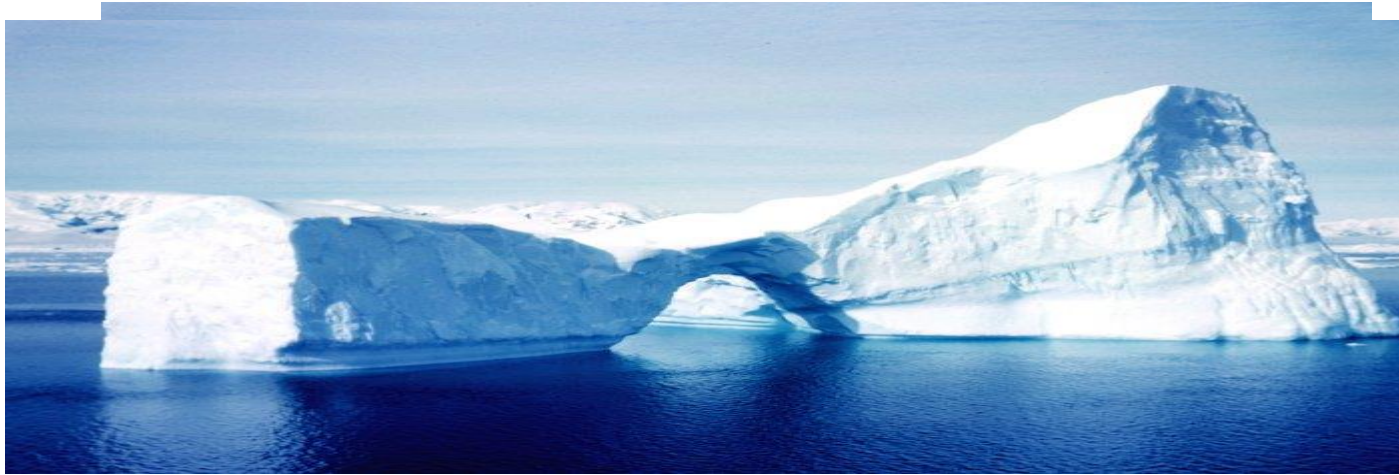
Interest based Vs positional negotiation



THE ICEBERG OF CONFLICT



ABOVE THE WATER LINE



Parties arrive at conclusions that may be firmly held and lead to the adoption of intractable positions.

These are presented above the water line.

BELOW THE WATER LINE

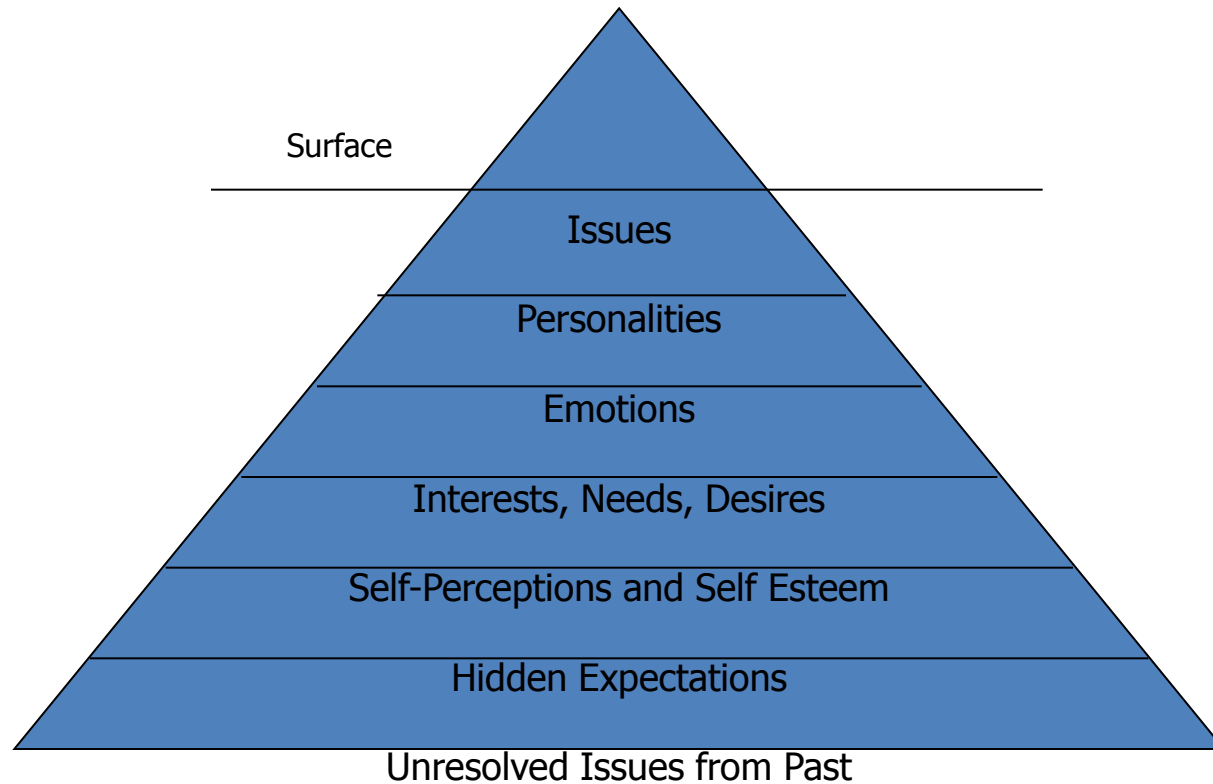
In order to surface the multi-dimensional, multi-faceted nature of conflict it is necessary to explore what is below the surface.

People in conflict have a depth of meaning [below the water line.](#)



BELOW THE SURFACE

Cloke & Goldsmith (2000, p.114)



MEDIATION PROCESS MODELS

✓ Facilitative

- Evaluative
- Transformative
- Narrative
- Restorative

THE SPECTRUM OF CONFLICT INTERVENTIONS

- The Legal Process: Adjudication; Collaborative Law
- Restorative Justice / Restorative Practice Conferences
- Arbitration
- Conciliation
- Early Neutral Evaluation
- Conflict Coaching
- Assisted Negotiation
- Enquiry & Investigation
- Truth & Reconciliation

MEDIATION & FAMILIES IN TRANSITION

WHO?

- Spouses/Partners
- Parents
- Siblings – adult/teenage
- Grandparents
- Elderly
- Extended family
- External Agencies
- The Legal Process
- All of the above

WHAT?

- Separation & Divorce
- Parenting & Children
- Finances & Property
- Boundaries – *both kinds*
- Behaviour(s)
- Safety/Protection
- Elder care
- Reconciliation /
restoration

Substantive and relational

MEDIATION OUTCOMES

OUTPUTS

Agreement

- Written OR Verbal
- Non-binding OR Binding
- Legal

Content

- Parenting
- Finances / Property
- Care Plans
- Ground Rules/Boundaries
- Support Plans
- Review
- Preventative strategies

OUTCOMES

- Reconciliation
- Closure
- Impasse
- Agreement(s)
- No Agreement
- Support Systems
- Learning from the past
- Apology
- Forgiveness

+ Other Agency Involvement

EVALUATION OF MEDIATION

- ✓ **Success**
 - How to define and measure?
- ✓ **Who defines success**
 - Clients
 - Parties
 - Mediator(s)
 - Funders
 - Policy-Makers
 - The Legal Profession
 - Society
- ✓ **Bespoke Evaluation Design**
- ✓ **Further Empirical Research *'the metrics'***

FURTHER READING

College of Mediators' Code of Practice

www.collegeofmediators.co.uk

The Mediators' Institute of Ireland Code of Ethics & Practice

www.themii.ie