

Article

The Corporate Mediator – Supporting People, Fights, Flights and Flows

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1 Introduction

Once upon a time, *fight or flight* was the only choice available when it came to how human beings reacted in the face of conflict. Later *freeze* became an option, as human beings learned from the animal kingdom about the precarious advantages of rolling over playing dead on encountering a predator. Today, a much favoured alternative is to *ignore* conflict with the ostrich-like competence of burying one's head in the sand. But there is a better way to face up to, and to not only survive but also potentially thrive, when encountering conflict. This new approach has been pioneered by an organisation that has its head, and its business, in the clouds, for very good reasons.

EUROCONTROL is the European organisation for the safety of air navigation. Over the past decade, it has taken positive steps to effectively manage workplace conflict in a way that supports its people, continuously adapting to changing circumstances and delivering a challenging stakeholder-driven agenda. Not wishing to be limited to a 'fight or flight' choice, and mindful that the business plays a vital role in ensuring the safe flow of European air navigation, EUROCONTROL actively encourages its people to also get into 'flow' so they can

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better handle difficult interactions and create win-win outcomes. It uses an in-house corporate mediator, operating informally, to empower people to explore alternative ways of addressing and resolving workplace conflicts.

In the technologically driven world of aviation, safety is paramount. Sophisticated systems are in place to avoid conflict between aircraft; however, conflict between people is a whole different matter. But failing to face up to the consequences that arise from the creative disagreement of intelligent minds would be like stumbling into the future with the equivalent skill set of Stone Age man. This is the story of how corporate mediation came into being at EUROCONTROL and, as the mediator for the Agency, I am pleased to tell this story. (As an international public service organisation, I use the word *corporate* advisedly because we aim to combine public service ethos with private sector effectiveness.)

2 Corporate Mediation: A Proposition?

Corporate Mediation: A Proposition? is the title of Dr Martin Brink's thought-provoking leading article published in December 2016 in the first issue of the *Corporate Mediation Journal*.¹ This article strongly resonated with me, and I wanted to promptly respond and say *Corporate mediation: it's a reality!* Dr Brink posed the following question in his article:

1. Brink M. (2016). Corporate Mediation: A Proposition? *Corporate Mediation Journal*. Retrieved from <www.elevenjournals.com/tijdschrift/cmj/2016/1/CMJ_2542-4602_2016_000_001_002>.

How can mediation techniques make a difference in achieving your personal goals and advance the objectives of your organisation, even when there is no conflict?

Elements of an answer tumble from my memory and span a period of four decades. Piecing the fragments together, I find that I subscribe fully to the premise that the concept of mediation, and its associated techniques, really *can* make a difference in achieving personal goals and advancing organisational objectives, *especially when there is no conflict*. Here is how, in my experience, the capacity to conceive, develop, launch and operate mediation services in different settings helps people, and organisations, to navigate situations of conflict and arrive safely at their destination.

3 On First Awareness of the Concept of Mediation

I first became aware of the concept of mediation back in the 1980s as a senior civil servant in the law division of the Department of Justice in Ireland. I was posted on special assignment to the newly appointed Minister of State for Women's Affairs and Family Law Reform, Nuala Fennell. She had her finger on the pulse of the burning issues of the day. A pioneer of social justice, she was elected on a mandate to deliver a long-awaited programme of social reform that involved highly controversial issues. Her priority was to introduce ground-breaking legislation to abolish the status of illegitimacy for children born outside of marriage. They had no legal status and so were often disinherited as regards succession rights. I was tasked with drafting the Heads of this Bill, in the pursuit of justice.

The Minister also launched a pilot scheme for a family mediation service that paved the way for separation and divorce legislation. Separating couples could, through this new service, successfully navigate their conflicts and find amicable solutions to their difficulties, guided by multi-partial mediators. The person appointed to pioneer the creation of the ground-breaking service was Maura Wall Murphy. I had the pleasure to work closely with Maura later in my role as Head of the Courts Division where I also helped smooth the administrative processes that enabled the fledgling service to successfully get off the ground. What I learned from working with her was the power of sensitivity in tuning into the unspoken needs of people in conflict, empathising with their situation, understanding what it would take to make things better and responding in a way that empowered them to explore their own solutions. The deepest conflicts are sometimes those that make the least sound, or are endured in silence. I also learned that a diligent, patient and skilled mediator could open up new frontiers for conflict resolution and I witnessed this at

first hand. I had started to awaken to the power of mediation.

Both of these pioneering women, Nuala Fennell and Maura Wall Murphy, swam against a tide of political and religious opinion, and their achievements marked a turning point in modernising Irish society. I am glad to say that the concept of mediation is now a well-established cornerstone of the infrastructure of Ireland, and a recently published Mediation Bill (currently in passage through parliament) bears testimony to the evolution of mediation since then.²

4 Moving On

In 1991, I left the Department of Justice and joined EUROCONTROL, thinking I had left mediation far behind. It took a further 16 years for mediation to tap me on the shoulder. EUROCONTROL employs around 1,950 people. Its headquarters is in Brussels, it has an Upper Area Control Centre in Maastricht, a Training Centre in Luxembourg and another centre south of Paris in Brétigny. This intergovernmental organisation, founded in 1960, today comprises 41 member states and has bi-lateral agreements with Russia, Israel and Morocco. It supports the creation of the Single European Sky through the Network Manager and the Central Route Charges service. English and French are the official languages, and it is a veritable tower of Babel with many other languages spoken daily between colleagues and stakeholders.

In 2006, my role was head of social dialogue, managing industrial relationships between management and trade unions. Frequently, the kinds of issues that arrived on the social dialogue agenda were unresolved disputes that had escalated upwards from lower levels within the organisation (but that could perhaps have been addressed and resolved at an earlier stage). I convinced my management to test out the idea of creating a system of early detection of conflicts, on an informal basis, whereby people could bring their burning issues to a neutral and impartial mediator. If successful, unresolved individual issues would not necessarily become unresolved collective issues. It would also be good if mediation proved to be cost-effective and delivered a high success rate. With management backing, I set about creating the Agency's Mediation Service and I sought out expert guidance.

5 Getting Off the Ground

I started from scratch to design the architecture that would support the new mediation function. I asked Maura Wall Murphy if she would be my mentor to help

2. Mar a tionscnaíodh. (2017). An Bille Idirghabhála, 2017. *Houses of the Oireachtas Service*. Retrieved from <www.oireachtas.ie/documents/bills28/bills/2017/2017/B2017D.pdf>.

me learn more about mediation, and I was delighted when she agreed (she remains my mentor, and my friend, to this day). My first step was to tailor-make the service to meet the Agency's needs. Spending time getting the architecture right would save a lot of unnecessary difficulties later on. Also understanding the nature of the conflicts that frequently arose in the organisation helped me fine-tune the design.

My aim was to open up awareness in the psyche of the organisation and its people to another way of addressing and resolving conflicts. Empowering people to use the safe space of mediation to amicably settle their differences and to explore options was an exercise in trust building. The challenge was to make mediation an integral part of organisational architecture and to have it officially recognised on the assets side of the balance sheet. After a one-year pilot programme, a formal decision of the Director General in December 2007 brought the EUROCONTROL Mediation Service into being. The *vision* of the Mediation Service was as follows:

EUROCONTROL – a united, harmonious, safe and trusted professional working environment where conflict is managed, where people are respected, are genuinely valued as the organisation's most important resource and give of their best in support of the Agency's objectives, the Single European Sky and each other.

The *mission* of the Mediation Service was as follows:

To provide an Agency-wide Mediation Service that gives easy and early access to an alternative, voluntary, confidential, non-bureaucratic means of constructively resolving conflict and discord in the workplace, thereby avoiding unnecessary waste of valuable resources and enabling people to get on with their professional responsibilities and their lives.

The *deliverables* of the Mediation Service were to

- implement the provision of an Agency-wide Mediation Service in support of the Agency's evolving policies, strategies and values;
- deliver, monitor, review and adapt the provisions of the Mediation Service in line with relevant formal decisions;
- manage the resources assigned to the service;
- report annually to the Director General via Director Resources on all activities of the service;
- make general policy recommendations, based on the information and experience gained, so as to promote organisational awareness and learning, support good relations between staff and the administration and promote the attainment of business objectives;
- develop partnerships with senior management, staff services and the Staff Committees so as to create synergies and maximise effectiveness on staff/management issues, in support of Agency policies and its corporate social responsibility;

- give sound advice and balanced recommendations at individual, organisational and strategic levels so as to contribute to maintaining a highly professional and motivated workforce;
- mediate in cases where the services of a mediator are requested and empower the parties involved to develop practical and workable solutions; and
- develop relations with other European organisations with a view to sharing experience and best practices as regards the development and provision of mediation services in a multi-cultural working environment.

6 Becoming a Corporate Mediator

In parallel to designing the new service, I completed my basic training as a mediator with ACAS in the United Kingdom (the UK Government's Advisory Conciliation and Arbitration Service) in 2007 and was a founder member of EMNI, the European Mediators Network Initiative. Then, under the expert guidance of my mentor, I also became a practitioner mediator with the Mediator's Institute of Ireland (MII), who continues to issue my annual practising certificate in accordance with its rules of professional standards. Subsequently, I obtained recognition with the International Mediator's Institute (IMI) and joined the US Association of Conflict Resolution (ACR).

The cultural, legal and social circumstances of every organisation are unique, so a new mediator needs to stay clued into what is really going on. Creating space for mediation to operate within one's organisation is a journey, not a destination. Learning and awareness go hand in hand, holding a space open for what is changing and what is emerging. A mediation service needs to fit like a glove within an organisation where staff and management alike feel that coming to it for guidance is an accepted and normal part of daily business. Coming to mediation is not seen as failure but is recognised as having its rightful and timely place. As mediator, I work discretely and confidentially as an enabler, facilitator and conciliator. I do not take sides or decide who is right or wrong, but I encourage people to find their own solutions within the spirit of the rules and regulations that govern the way we work. In this way, the Mediation Service bases its work on respect for the Staff Regulations and General Conditions of Employment at EUROCONTROL and on the applicable administrative rules, while also respecting legitimate policy choices of the Agency. In the conduct of my mediator role, I also respect the code of ethics of my profession, both on a national and on an international basis.

7 Corporate Mediation and the Bottom Line

Mediation has come a long way since it was first established at EUROCONTROL over a decade ago. It is now recognised as an integral part of the culture. It offers an informal way of solving problems, helping people to explore creative ways of resolving their differences. The outcome is consensual and is not legally binding, and so it does not take away people's right to make a formal complaint should they choose to do so. What is said in mediation stays in mediation, and the parties agree not to use anything that arises during the process for other purposes. This is respectful, fair and protects confidentiality. I operate on trust, and I have no decision-making power.

The Mediation Service at EUROCONTROL now contributes directly to the bottom line by providing cost-effective professional services that are

- easily accessible, independent, neutral and impartial;
- supporting staff and the Agency on issues that would benefit from mediation;
- providing confidential impartial opinions on request (oral and written);
- making recommendations for the amicable settlement of disputes;
- offering one-to-one conflict coaching;
- carrying out individual and group conflict dynamic profiling;
- referring cases to other procedures (if mediation is not suitable);
- making a general annual report to the Director General and to staff;
- working informally to solve problems in a non-bureaucratic way;
- promoting heightened ethical awareness; and
- supporting risk management and risk mitigation.

As a mediator, I seek to attain what I call ethical congruence. This is the state where values, behaviours and perceptions are aligned. The challenge is also to proactively uphold the Agency's ethical framework and code of conduct. Mediation allows for a new layer of human interaction to take place outside of the mainstream. This level can be found below official channels, parallel to formal procedures and in the gaps between bureaucratic processes. In any year, up to 10% of the people of the Agency turn to mediation for support. People learn how to expand their awareness, transcend their difficulties and navigate conflict. I believe it is possible to positively influence an organisation one person at a time through the process of mediation and conflict coaching.

One example is the valuable support my service gave during reengineering and restructuring exercises over the years (e.g., the redeployment of Agency services from Prague, Budapest and Karlsruhe to other European sites and the launch and deployment of an Early Termination of Service programme). As a trusted safe

space, it is movable, adaptable and capable of responding to different needs at different times. It fits equally well into either administrative or operational safety environments.

Today, there are two key performance indicators listed in the Agency Business Plan that describe mediation services as offering a

- 95% response to requests for support within two working days;
- 95% response to requests related to the provision of impartial opinions and recommendations for amicable settlement of disputes within five working days.

8 Insight on Organisational Culture

Managing the emotional dimension of organisational culture requires regularly taking the pulse and the temperature of what is going on under the radar from different perspectives – human, social, technical, political, economic and organisational. This involves analysing and understanding sources of conflict that can be deep rooted and sometimes invisible. The challenge is to empower people to become more conflict competent, to constructively promote and influence ethical behaviours, to support risk management and risk mitigation and to provide a general narrative that can bring insight to information.

A corporate mediator has the opportunity to plot the hidden landscape of an organisation and to acquire a deeper understanding of the difficulties encountered by its people, enabling them to better navigate conflict. In addition to having individual clients, the organisation itself can also become a client of mediation, at a meta-level, because it too has an identity of its own. In mediation, 'company culture' is the invisible and sometimes silent third party in the room. Spending time getting to know and to understand this, one begins to uncover the depths that underlie the difficulties and risks that people encounter – it is rather like discerning the geology of the terrain. This resonance can go deeper than human resources management and can also be an early echo-chamber to guide the services for prevention and protection in the workplace. Similarly, it can also contribute to the audit function on how to best channel effort into upholding ethical principles.

EUROCONTROL was co-sponsor of the fourth National Corporate Mediation Congress in Amsterdam on 24 May 2016, organised by the Dutch Corporate Mediation Association. The theme of the conference was to foster a dispute-wise culture and to show the added value of mediation skills in many aspects of corporate life, such as ethical compliance, risk management, workplace issues, business disputes and negotiation. It also focused on company culture and on how to embed dispute management within organisations, as

well as making a significant contribution to the debate about the connection between culture and conflict management skills. Congress asked the question,

How do we translate the ‘What’ of corporate ethics and mission statements into the ‘How to’, so as to bring about, and uphold, the desired standards of behaviour and corporate governance?

The event offered the opportunity to promote the concept of a ‘dispute-wise’ organisation (dispute-wise companies being increasingly considered as attractive employers and company culture becoming an essential element of cultural branding and brand awareness). As a conference presenter, I outlined the lessons learned from a decade of workplace mediation. Not only has mediation heightened general conflict awareness within EUROCONTROL, but awareness has also emerged that the concepts of dispute detection and resolution are intrinsically linked to ethical behaviour, risk management and risk mitigation as tools of corporate governance. The Agency was hailed at the congress as being a pioneer in the field of promoting corporate mediation and recognised for its willingness to share with others its experience of lessons learned along the way.

9 A Eureka Moment for Mediation

Over the past 2 years, since taking on the parallel role of Agency ethics officer in addition to my role as Agency mediator, I have been able to bring a new dimension to my work. In my latest annual report, I remarked that there is a dynamic synergy potential between mediation and ethics. This was a eureka moment, seeing mediation and ethics as two sides of the same coin. As mediator, I became aware that very often there can be ethical issues that underpin the conflicts and disputes that arise in the daily life of an organisation and its people. This is entirely understandable in a multi-cultural environment where staff come from more than 41 different cultural backgrounds. Let me give some examples of how mediation and ethics work hand in hand:

- A manager and a staff member keep on having the same conversation, over and over again, on an important ethical issue that always ends up in an argument. Rather than letting their frustrations break up an otherwise good working relationship, they bring the issue to mediation;
- A multi-cultural team is suffering because their line managers are constantly in disagreement; the team wants to improve their own dispute resolution skills so that they will be better able to guide their bosses through the trouble spots and into agreement;
- A manager is concerned that two of the best people in the team do not get along well together and the whole unit’s performance is being obstructed as a result;

- A staff member wants to rehearse a difficult conversation before a meeting with their boss so that they can use the right kind of language to succinctly and effectively make their point about an area of concern;
- A manager is uncertain about how to address inappropriate behaviour of a staff member and wants to be guided on how to tackle a highly sensitive issue.

In all such cases, the blueprint I connect to is the Agency’s ethical framework and code of conduct, which echoes the principles that govern us. It provides the language that describes desirable professional behaviour. The positive wording of this framework can be harnessed during mediation and conflict coaching and then be channelled back into promoting good relations.

10 Reflective Practice

Reflective practice is a very important part of a mediator’s work, and it is good to take a step back and reflect, from time to time. Every year, I submit my annual report to the Director General, via Director of Resources, and I publish it internally for all Agency staff. I use my annual report to observe and document the general nature of concerns that people have at work (all cases handled are, of course, completely confidential). This accompanying general narrative enables the organisation to get an overall picture of what the main areas of concern are – rather like an MRI scan that takes a magnetic resonance image of what is not visible on the surface. Mediation enables me to echo back general messages of relevance, and this can help to make sense of what happens. Experience thus gained can promote better understanding of what, for example, may lie at the root of absence management statistics or what people may not be willing to say at exit interviews. An organisation that tunes into this narrative can become increasingly aware and respond appropriately so as to put strategies in place to support desired outcomes. Every client has a story to tell, and their collective tales echo the history of an organisation in constant evolution.

11 The Corporate Mediator Evolves

So, what are the hallmarks of corporate mediators? First and foremost, we are educators, of ourselves, of others and of the organisation and the people whom we serve. We have access to an unmasked view of reality and the trust and confidence placed in us enables a glimpse of hidden daily challenges. It is a position of great trust and privilege to be a listener to what people express in confidence and to receive echoes of the underlying core issues that emerge from experience.

A corporate mediator must inevitably reflect on the value one brings to one's organisation. It obliges one to develop an activist psychology and to constantly adapt one's view in relationship to the emerging organisation, no longer seeing hierarchy in the vertical sense, but rather as a network of overlapping circles. Studying an organisation, one becomes a student of its infrastructure and its people, seeing things with fresh eyes. One then begins to develop a deep sense of its needs and the vacuums that may exist. Enabling people to fill vacuums and to see blind spots can be a real challenge. New ideas and alternative perspectives can take time to be understood, accepted or rejected. Good ideas are like time-release capsules so that not all the value is revealed at once, but may emerge slowly over time. This reflects the ebb and flow of a healthy organisation.

12 Connecting to a Professional Mediator Network

Working as a mediator is challenging and rewarding, but it can also be a solitary experience because of the independence of the service and the need to maintain absolute confidentiality and impartiality at all times. This makes it all the more important for me as a corporate mediator to connect to a professional network and to continuously plug into a professional body of knowledge. Maintaining standards, learning from best practices and sharing general learning experiences are all part of continuing professional development.

My membership of the Mediators' Institute of Ireland, as well as access to my trusted and invaluable mentor, has been an immense source of inspiration and guidance over the years. Aspects such as developing a code of conduct, adhering to ethical principles, setting up mediation processes, designing frameworks, analysing data, developing professional competence, contributing to policy and strategy, designing the mediation architecture and learning from best practices have all benefitted from shared experience. I continue to enjoy sharing and learning on a multi-national basis through my valued association with the Round Table of Corporate Mediation in the Netherlands.

13 The Potential for Corporate Mediation

Corporate mediation is growing and thriving and has potential to heighten corporate awareness. It is a corporate enabler in that it can bring an alternative perspective to daily interactions and evokes a different mind-set (one that recognises conflict as a constructive and dynamic process). It has the potential to work in at least *four different dimensions*:

- Firstly, it works *for the clients* who are in (or who may be on the borders of) conflict;
- Secondly, it works *for the cognitive and emotional organisation* (even though it may not knowingly start out as such);
- Thirdly, it works *for the mediator* who has access to clients in need of mediation services and who adopts a multi-partial approach (through being on everyone's side); and
- Fourthly, it works *for the mediators' profession*, enabling professional exchanges among peers to mutual advantage in a way that has the potential to reinforce the value of mediation, as well as having the capacity to open up and transform working relations.

In conclusion, I believe wholeheartedly in the empowerment that corporate mediation offers. I recall a conversation I once had with Ken Cloke, the world-renowned mediator. I thanked him, at the end of a master class on mediation, for what I called 'opening up new frontiers within me'. Ken replied modestly, 'I could not have opened them up if they were not already there.' That thought has echoed with me ever since, and I now constantly ask, 'What new frontiers are still waiting to be discovered beyond the boundaries?' I know corporate mediation can help to provide the answers.