

Editorial

From the Editor

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Mediation is about communication. Communicating is something we do all our lives and while not all of us are blessed with the gift of the gab, we do all need to communicate effectively with others. Yet, communication is incredibly difficult. To avoid misunderstanding, to properly verify assumptions, to ascertain that what is being said is properly understood, not to listen only in order to respond but to appreciate what is being said and to postpone judgement while listening, these are just some of the major challenges involved in every-day interaction between people. When emotions are touched upon, the challenges become even greater. The number and nature of the challenges also increase with the number of participants in any given communication. Yet communication is so common and fundamental to our lives, that – like breathing – we do not consciously spend much attention on it until it is not functioning well. To deal with ineffective communication – or, even to prevent issues from arising in future – requires deploying the very skills that mediators are being taught during their training. Mastering these skills is useful to avoid or solve disputes but it may also facilitate the normal interaction in every-day exchanges between people.

The Corporate Mediation Journal (CMJ) is a periodical about mediation within and between organisations. Whether organisations are commercial or not-for-profit, departments, other units or even whole countries, communication is key. Communication is above all the art of listening. It may or may not have been deliberate, but Donald Trump provided the White Working Class with the impression that he had heard their voice. Emanuel Macron may have failed to hear the voice of the people of France in sufficient time to be able to avoid the havoc that has befallen that country in December 2018 in the *gilets jaunes* uprising. Being heard and being given what I call “a receipt for the message that has been conveyed” – which is not the same as saying one is in agreement – is an important prerequisite for the other to open his or

her own mind for whatever other messages may need to be conveyed in future. Stephen Covey in his book *The Seven Habits of Highly Effective People* worded this famously as “Seek First to Understand, Then to Be Understood.” Real understanding can make an enormous difference

Corporates are increasingly aware that management behaviour can foster employee engagement or conversely that it can be the cause of distress, employee turnover, sick leave, burn outs and other misfortune.

There will be chains of command whereby hierarchical positions determine who is in charge of who and of what. Yet, the manner of communication at every level of such a reporting line, may make all the difference. The reporting lines will be less prominent if from top to bottom the communication will be as between equals or at least conducted in a respectful manner. A key to successful communication according to the Dutch marketing guru Jos Burgers is AIC: Attention, Involvement and Compliments. A sincerely intended compliment does not cost much and yet may in the longer run carry more weight – as research show – than a wage increase. I have always started a cooperation by explaining that we were only starting the cooperation because the other was OK, otherwise he or she would not be there. On that basis I wanted to agree that we would mutually express the things that went well and also the things that did not go well. The result of our joint effort was to be key as it superseded sensitivities which without such an agreement might be the result of direct communication about things going wrong. The principle underlying that agreement being that any critical remark would always pertain to the result of an effort, not the person undertaking the effort. One can be dissatisfied with a result, but that ought not to be the same as dissatisfaction with the person involved; without conscious effort the two are easily conflated. I believe it was Ghandi who said

that one can condemn what someone does, but that should not mean condemnation of who someone is. I have adapted this approach into a method which has enabled me to address things that were not as we had hoped they would be, without directly implicating the person responsible as an individual. The formula reads “www/www/www”. After a project or some other effort I would ask “what went well/what went wrong/what we want.” This way of addressing a result keeps the communication open about lessons to be learnt and the quality of the (desired) output while maintaining respect for the person involved.

Flawless products or services cannot be delivered without the dedication of each and everyone in the chain of command. Dedication, i.e. full engagement of everyone in the chain of command, may be the result of a safe environment where open communication can be a core part of the culture within an organisation. How do people learn things, how are disagreements and conflicts handled and how safe is it to contradict superiors? James Comey in his book *A Greater Loyalty* writes that as a leader of the FBI he deliberately tried to stimulate contradiction. As one of the highest people in the chain of command of the Federal Bureau of Investigation he hoped to protect himself and the organisation from making mistakes by inviting everyone in the office to express doubts and to contradict him if they felt uncertain about his direction or decisions. He realised in the process he had foremost to manage his own attitude and response in the event that his wish was fulfilled and he was contradicted or his views were challenged by his staff. Walk the talk is easier said than done where it comes to leading figures in organisations who say that they invite different opinions or that their door is always open.

In order to facilitate and enhance a stimulating culture of communication, it must be possible to safely deliver both good and bad news. Managing for trust first and foremost requires self-management of those in charge of a unit, department, enterprise or other sort of organisation. This is not as easy as it sounds. As discussed above even communication in general without much at stake is not as easy as it sounds.

We humans are emotional creatures, so even when we internalise the skills that are taught in mediation school, deploying these skills when it concerns our own heart-felt emotions and beliefs, is not easy. Mediators even fight amongst each other, for example about which school of mediation is best, whether or not to have statutory obligations regulating mediation and about what is and is not allowed in mediation. Like in all situations where opinions and interests may diverge, it is helpful to engage a third party to help us keep trying to first understand in order to be understood. More and more companies begin to understand this and are creating within their organisations something that Anna Doyle in *CMJ* 2017/1 called “a space for mediation to operate within an organisation”. This is a business function

which people can turn to in case of tension with others or when in doubt about choices to be made, be it with respect to ethical, economical or personal issues. She called creating such a space a journey and not a destination. The space she meant is a place within an organisation where staff and management alike feel that coming to it for guidance is an accepted and normal part of daily business. I know of a Swiss organisation where every Friday of every week there was a similar space, a room where a mindfulness trainer was available for consultation. Employees could walk in without appointment to discuss what their impact was on the organisation and what impact the organisation had on them (as my definition of mindfulness reads). The idea is that turning to a space like mediation or mindfulness is not seen as a failure but is recognised as having an added value. Mediation techniques can make a difference in achieving personal goals and help advance the objectives of the organisation, even – or, as Anna Doyle emphasized – especially, when there is no conflict.

Tensions will exist and occur. It is not possible to always come to an agreement when views differ. Some tensions are even there to stay. The most simple example is that of divorcing parents with young children. They have a choice between negatively influencing each other’s lives and those of their children, or to live with the realisation that tensions between them will exist until they are no longer jointly responsible for the upbringing of their children. In spite of their possible differences or even dislike of the other, they will have to make numerous emotionally significant decisions together until their children reach adulthood. The best way to manage that situation is to acknowledge the reality that difficult decisions concerning their children will occur and to make an arrangement as to how to deal with such situations. Potentially antagonistic decisions lay ahead, e.g. what schools the children will attend, what clubs to join, and other equally sensitive and significant issues. Those cases will invoke associations with individually held beliefs or very different character traits. A wise couple will come to an agreement that will allow each of them to build a new life while avoiding a resurgence of pain from old wounds and enable them to make informed and affordable decisions where it comes to joint parenthood.

On the other end of the spectrum, think of entire countries that hold radically different views on society, where both have the means to destroy each other with nuclear and other weaponry. Again, there has to be a realisation that difficult situations will arise – stemming from their different perceptions about what is good and bad or right and wrong or even simple economic interests – and that they will require structures/ methods that will help dialogue and avoid escalation. The combination of that realisation and a structured arrangement will have to form the basis for a peaceful, be it not always warm relationship. In the case of both the parents and the countries, a lot is gained when structured arrangements

are put in place as to how to deal with difficult situations. The parents and the countries will then seek not to fight when difficult decisions need to be taken, but to consult and negotiate with each other. This has led to the establishment of international organisations such as the World Trade Organization, the United Nations and numerous other international organisations and institutions. These and other institutions may not be the only solution for mankind's problems but they are the best alternative to war and destruction. Every platform intended to invite and sustain communication between (potential) disputants is of tremendous value.

Within organisations the creation of a space as mentioned above may be of great value to offer a place to turn to when tensions arise between individuals or when people have doubts either about themselves or others. Easy and early access to an alternative, voluntary, confidential and non-bureaucratic means of constructively resolving conflict and discord in the workplace, is very valuable to any organisation. It may help to avoid unnecessary waste of valuable resources and to enable people to get on with their personal responsibilities and their lives and to continue interacting within the organisation in a productive way. At the same time in-house training of people in mediation skills may bring many benefits. It will teach them to ask open questions, to appreciate that everyone has their own way of looking differently at the same thing and to use verification questions before reaching conclusions. A telling example is the fight between two heads of department after the one had remarked to her somewhat chubby colleague who came to work in a new dress that it was a good thing there were now also fashionable dresses for big people. After much ado and weeks of sour relations between both departments it turned out that the observation had been intended as a compliment, coming from someone who had herself had weight problems in the past and never had been able to find something fashionable to wear. This example just serves to demonstrate the potentially fatal difference between intent and impact.

In an increasingly tense employment market – where the real battle is to attract and retain talent – the culture of an organisation may make a distinctive difference. Much in this respect comes down to the quality of communication within the organisation. What is the level of formality in authority relationships, how much room is given to learn and how are disagreements and conflicts dealt with? In the transparent world we live in there are few secrets; young talent will know where to go based on information collected from the ample sources available to them about the working environment they consider to join.

Deployment of mediation skills can make the difference in both positive (smooth operations, fruitful relationships) and negative (loss of speed, energy, time, legal/other costs) ways, both within and between organisations. Mediation skills make it possible to address issues

in a non-aggressive manner and to face issues in a less defensive way. They make it possible to conduct the same conversation differently. In this issue of CMJ the well known French mediator Thierry Garby raises the question of what is a good mediator and how to find one. He has his own take on the answer to the question how relevant subject matter expertise is when it comes to conducting a mediation and selecting a mediator. There are different views in the field of mediation when it comes to answering this question. It is interesting to learn about one of those views from the contribution by Thierry Garby.

Not only between individuals but also between entire organisations the quality of communication – or the absence thereof – can make the difference between opportunities taken or squandered. For organisations it may determine loss of time, energy and costs as opposed to preservation of relationships and even extended business opportunities plus, as mentioned, a critical reputation as an attractive organisation to work for. The International Institute for Conflict Prevention and Resolution – CPR – has designed instruments to consider more thoughtful and collaborative ways of preventing and resolving disputes. The CEO of CPR, Noah Hanft, in his contribution to this issue of CMJ, explains not only the importance of early case assessment but also the existence of a toolkit for that purpose and further the existence of various instruments to avoid escalation between organisations in the form of CPR Pledges. The example set by CPR to introduce pledges i.e. policy statements to which companies and their advisors may subscribe in order to avoid unnecessary escalation of conflict, may be an inspiring example for institutions in many other countries to follow.

To explain a bit more how flexible an instrument mediation can be, the last contribution to this issue investigates a definition of mediation.

Mediation continues to gain momentum between individuals and within and between organisations. It may well follow the same path as biological food. After a hesitant start consumers now have come to understand that eating biological flour is in their own interest. One does not only buy biologically produced products to support the environment but because it is beneficial to one's own health. Who will want to litigate once the realisation becomes more widely understood that as a rule litigation is lengthy, costly, causes negativity in relationships and has an uncertain outcome, while with the help of a qualified mediator in many cases in one or just a few days of constructive communication, most problems can be settled. Research shows that the vast majority of cases (over 90%) are settled either before, during or after litigation. The question to ask then is, how much money one wants to burn before settling a case. There is not much that cannot be solved with the help of a good mediator or deploying mediation skills by oneself.

Pleasant reading.