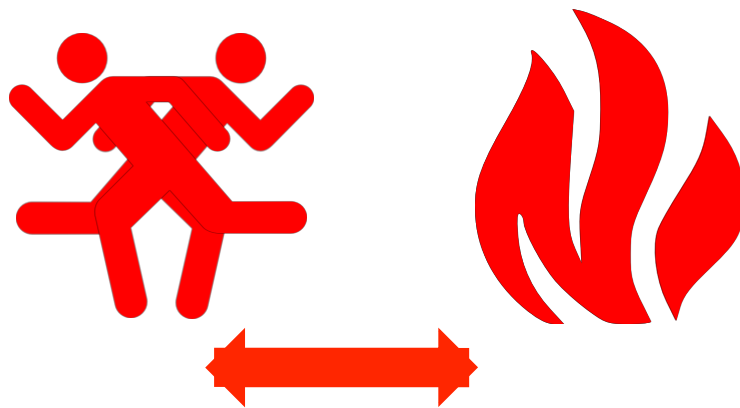


Overcoming Resistance to Mediation & Resolution

Steve Hindmarsh Ltd

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CREATING OPPORTUNITIES
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Causes of resistance

- Fear
- Negative associations
- Misunderstandings about mediation
- Risk: reputation, status, control, formality
- Previous bad 'mediation' experience
- Adversarial right/wrong thinking.

Expect 'No' as a reaction, work through reaction to reflection and reason and then decide.

Access fears and get their picture of the session: "What do you see happening in the mediation session?"

Why resist mediation?

Negative associations - "Mediation!" = The 2 C's

CONFRONTATION

COMPROMISE

Mediation is voluntary / Resolution is a responsibility

Reframe resistances as agenda items for the session

Insight into their relationship: "What goes through your mind before going into a meeting with them?"

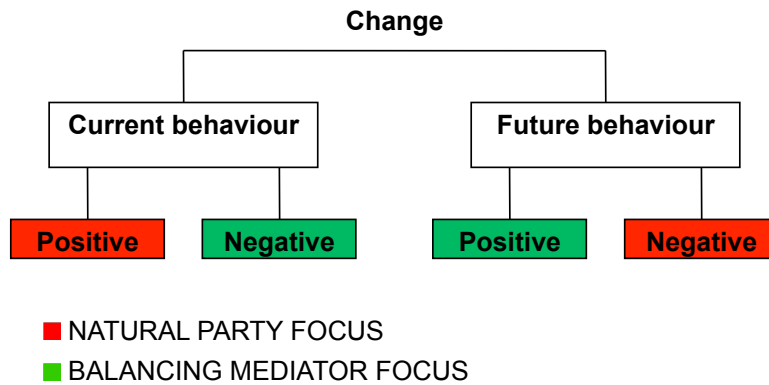
Reluctance to Mediate

- A compassionate stance: Then and now, whatever people do or say, that is their best attempt at dealing with it, they are trying their best!
- Move to where they are
- Marshall Rosenberg quote - "Every judgement and criticism is the tragic expression of an *unmet need*."
- Help them make an interest based decision
- Compare and cost mediation with other methods - against potential to satisfy interests
- BATNA / WATNA - Best / Worst Alternative to a Negotiated Agreement.

BATNA/WATNA Best / Worst Alternative

- What's your best alternative to seeking a resolution today?
- What's the worst outcome if we do nothing?
- What's the best/worst outcome from trying to resolve?
- If we don't resolve this, what's it going to be like in 6 months time?
- In 6 months time, what would it be like if we didn't try to resolve this today?
- What would it be like 3 months from now if you could change this issue?
- Who else can address these issues apart from the other party?
- How could it be for you if this was resolved?
- What other forum could achieve a resolution?
- What would it be like if we did/didn't attempt to find a way of working with your manager?
- What is keeping you choosing this now? (Risky)

Engaging Parties in Mediation: Working with Reluctance



Inside the 'no'

- No = a series of unconscious choices
- Every negative 'no' masks a positive 'yes' to something else
- Find the 'yes' and start from there
- Find their choice, their start point, rather than starting from our choice for mediation
- Example – “How would you like the situation to have been managed?”
- Hands back dignity, allows them to begin again, offers ownership, control, and empowerment.

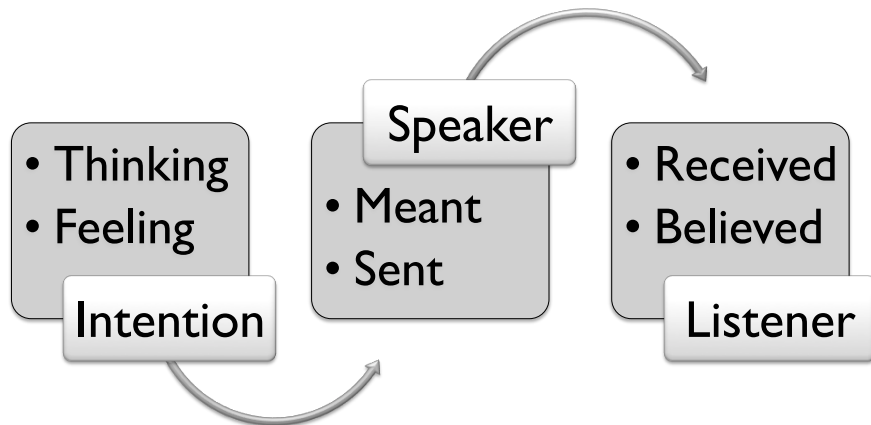
The Second Party: Building Ownership of the Process / Restoring Equality

- How do you feel about being here?
- How would like this situation to have been handled?
- Can we go right back to the start, to before this all happened..?
- Can you take me back to where this felt....for you?
- Make a process statement: informal, confidential, impartial
- Emphasise your role: to understand
- Demonstrate impartiality: strong focus on them, follow their perspective, join with their experience
- If a manager: ensure you hear the manager's story
- Connect
- Trust.

Great Questions

- Explore impact: "How does that affect you?"
- Identify relationship issues: "What goes through your mind before meeting them?"
- Dignity and ownership: "How would you have liked this situation to have been managed?"
- Surface fears to unlock resistance: "What do you see happening in the meeting?"
- Scaling questions: "Between 1 and 10, how comfortable do you feel about coming to mediation? What would lift that by 1 or 2? What stopped you putting it at n-1?"
- Encourage to mediate: "Have you got a better option, what will happen if you don't come to mediation?"
- Separate intent from impact: "Do you think it was their intention to make you feel that way?"
- Assess the common option: "What will happen if we do nothing...?"

Communication Gaps



Thank you

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