FUNCTIONS OF MEDIATION

Brendan McAllister
1. Assist communication

- When people do not want to meet
- Cannot meet
- Need assistance to engage each other
2. Improve understandings

• When people feel misunderstood
• To deepen insight about ‘the other’
• To enable parallel views to co-exist
• To facilitate ‘recognition – when ‘the other’ is able to see you as you see yourself.
3. Support Creative Thinking

- The mediator brings critical distance
- Is a ‘non-anxious’ presence
- Helps people to ‘think inclusively’
- Supports reflective thought
- Stimulates the imagination
4. Explore Accommodations.

- People are encouraged to think of what might be possible
- An accommodation does not require harmony
- People give each other ‘due regard’
- They do enough to get by each other
- There is little or no compromise
- The conflict is not resolved
- It is managed
5. Facilitate Agreement.

- A deal is made
- There is greater respect
- There is a significant compromise
- There is a degree of harmony
- An aspect of the conflict is resolved
The Spine of Mediation

Brendan McAllister, mediatEUR Senior Associate
1. Assessment

- What is going on?
- What are the issues?
- What has been tried?
- Is there a mediative task?
- Who should mediate?
- What might be the mandate?
- Mediators form their own mind
2. Design

- Aim: what is the purpose?
- Objectives: how will it work?
- Location: where should the bridge be built?
- Traffic: who will use it?
- Engineering: what structures are needed?
- Architecture: what should it look like?
- Timing: when should it open for business?
3. Story-telling

- People describe their situation
- Mediator: empathy, not sympathy
- Different or contradictory views are aired
- Conflict is humanised and personalised
- The impact on relationships is noted
- Recognition takes place
4. Framing the issues

- People ‘name’ their issues
- Mediators ‘frame’ the issues
- They may also ‘re-frame’ them
- The difference between Wants, Needs and Interests may be noticed
- Facts and feelings are noted
5. Problem-solving

- Issues are considered one at a time
- They may also be inter-connected
- Options are identified and explored
- Best Intentions and Worst Fears are voiced
- People consider each other’s difficulties
- Collaborative thinking takes hold
- Changed behaviour is contemplated
6. The Arrangement

- Could be an agreement or an accommodation
- Or merely a ‘point of understanding’
- Consider ‘interpretation’ by the parties
- Contemplate each ‘own side’
- Consider each ‘other side’
- Anticipate opponents
- Design mechanisms
- Commit to paper if appropriate
7. Implementation

Mediator:

- maintains conciliatory contact
- Seeks proximity, not intimacy
- Maintains the mechanisms
- Adheres carefully to their mandate
- Maintains accountability of the sides
- Is prepared to bear witness
- Keeps progress under review