Shaping a New Type of Hearing

Training Future Lawyers in Online Mediation
-insights from a pilot project -

by Allison Wolfreys
Online mediation pilot project for our final year LLB students

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Objectives of today’s session

• Snapshot of some of the content
• Explain the design of the sessions and the underlying pedagogy
• Explain how we developed the students’ communication skills
• To share student insights into their experiences in the project - observations on the advantages/disadvantages of online mediation
Justice and Mediation
The value of silence

“It’s not the notes, but the spaces in between”

(Miles Davis - legendary Jazz musician)
Design, Practicalities & Pedagogy

• Throughout the sessions, students use small group private rooms (breakout) as well as whole group responses and adobe tools
• Role Play
• Modelling
• Actors fully briefed
• Experiential
• Reflective
Content snapshot

- Lawyers and Mediators
- Values
- Techniques
- Structure
- Challenge of online Mediation (Employment law dispute)
Jolly Sweets and Greenfield Farm

- Commercial Problem scenario – Law Student Responses
Role of Mediators and Solicitors Compared

Mediators:
- Are impartial
- Give information not advice
- Facilitate sessions but client owns process
- Do not create a binding outcomes
- Duty of confidentiality with the mediation, but may not keep secrets from the other client

Solicitors:
- Represent one party
- Give legal advice
- Controls process – take action on behalf of clients
- Creates a binding outcome
- Duty of confidentiality to client
Ali and Dave are in dispute over a house that Ali rents from Dave. Ali feels the house is in disrepair. Dave claims that Ali has not paid his rent.

Ali is married with a young family

Dave is adamant that he wants Ali out of the property

Ali has limited knowledge of English

Dave is over 80

There is a court order in force preventing Dave from harassing Ali

Ali has an old conviction for dishonesty
Ethics, Suitability and Key Features

- Screening
- Ethical issues and dilemmas
- Suitability for mediation
- Voluntary
- Confidential
- Impartial
- Mediators facilitate, but the participants own the process
Techniques

• Active Listening
• Acknowledging and Mutualising
• Reframing
• Feeding back/clarifying
• Paraphrasing
• Keeping charge, intervening to summarise
• Use the silence
• How to structure the mediation and set the tone
• Provided with character briefs - Nina and Gus and Mediators – why?
Minis - Carousel

Mini one - in groups of four in breakout rooms – Mediators provide the opening statement and agree the agenda, clients to say a bit about what brought them to mediation

Mini two - exploring the issues and identifying the options

Mini three - agreeing options and reality testing

Mini four - finalising the mediation
You act for 360 mediation service

• The set up, the actors and the briefs.
  Organising the full simulated sessions.
• Breakout rooms, for full session.
Outcomes and feedback from the role players

“Exhausting – but fun”
“ It was hard to not advise”
“Ok online rather than face to face, in some ways better”
“I can see how I need to use my voice carefully in the set up.”
“I want to set up a mediation service”
“Can we come back as clients next year”
Overview and Conclusion

- Reflected on the possibilities and advantages of online mediation to solve some types of disputes
- Successful project that trained future lawyers in constructive mediation techniques
Any Questions ?