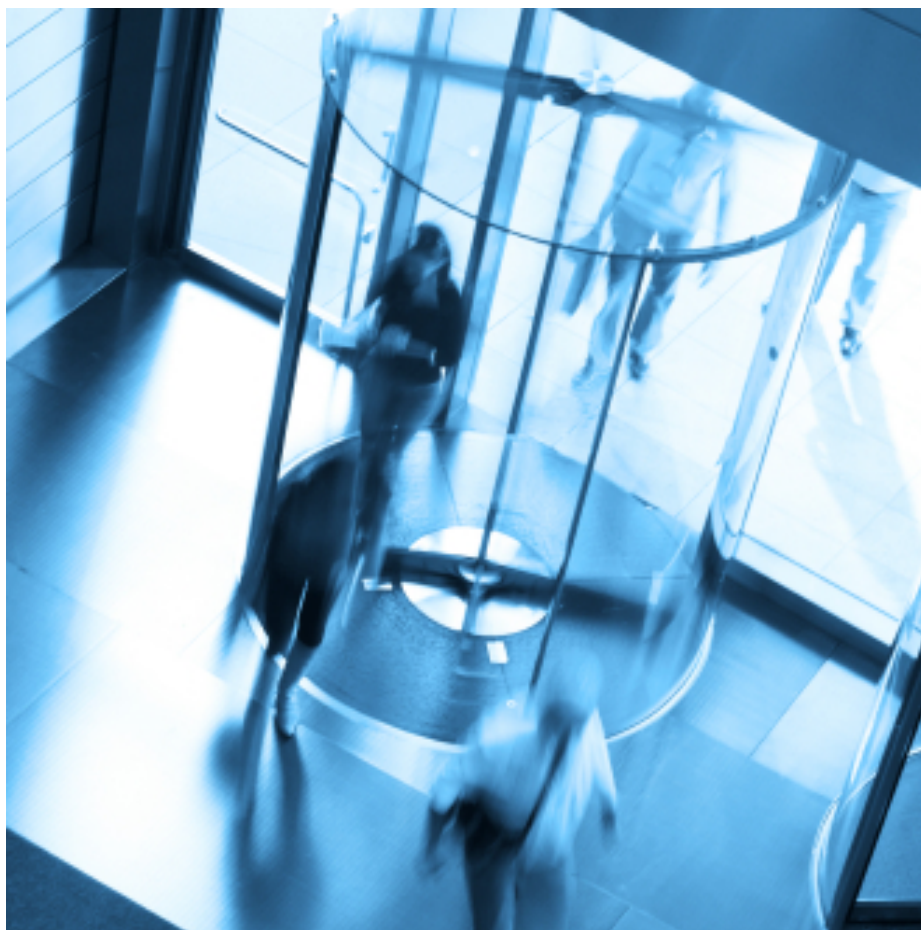


alternative dispute resolution



Coming to the crunch: Is there a middle way?

by Jackie Keddy and Clive Johnson

When relationships between colleagues, teams and organisations break down seemingly irretrievably, mediation may seem like the only logical course, but this may be an expensive, unnecessary and even ineffective path to resolving a dispute in the longer term.

So is there a "middle way"? To answer this question, it might be useful to start by considering what mediation (in the broadest sense of the term) usually aims to achieve. A resolution of a dispute can take various forms, but typically a common aim is to achieve an outcome that both the parties who

are in conflict can accept, even if this involves making a compromise or is less than the outcome that either may have hoped for. Mediation is not normally about judging who is right or wrong or for a mediator to impose any sort of mandate (although this may well be the domain of arbitration and may also feature in judicial mediation).

A mediator's role is therefore to bring two parties into a constructive dialogue and to help them recognise which scenarios they might consider as being realistic outcomes, in turn helping each to come to an agreement on the most appropriate way forward.

This is a task that often requires individuals to adopt new perspectives and to be ready to

have firmly entrenched views challenged. Very often too, it's about breaking the toxic influence of the quest for justice and "victory" that often leads many disputes spiralling into ever more bitter and hard to recover impasses.

From our point of view, there would seem to be a strong overlap between the skills and tasks of a mediator with some other disciplines – notably, coaching and facilitation. As with mediation, for such other interventions to work, the individuals who take part need to be ready to play their part. In the case of mediation, this may mean facing their alleged adversary across a table, although not invariably so. Being prepared to give such a dialogue a try means being ready to be open to



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possible compromise and (often in front of the other contracting party) also potentially demonstrating humility and admitting a wrong.

All too often however, many submit to mediation because they feel they are required to, or as a gesture of being seen to have attempted to resolve a dispute peaceably before it escalates toward potential litigation.

For others, mediation is merely the next stage in a path toward achieving "justice", and where this is a firmly held expectation, a hope of achieving a lasting peace in the relationship between the two disagreeing parties is likely to be very slim.

The type of mediation adopted may often not given too much consideration before a mediator is engaged either. Hence, often expensive, time-consuming and energy-draining sessions can be committed that may be inappropriate and unlikely to succeed in achieving their aims. Admittedly, this risk can be mitigated to some extent by making clear what mediation aims to

achieve and testing the readiness of individuals involved to acknowledge its potential value (or to make known a reservation is that they may have about the suggestion), before mediation begins.

So what about the potential role of coaching, facilitation, one-to-one consultancy and "sound-boarding", amongst other possible approaches that could be considered as alternatives to mediation?

We see that such options may offer actual advantages over mediation in many circumstances. Coaching, mentoring or consultancy can be made available to each individual on a one-to-one basis, allowing them to build an understanding of the situation they're in and consider potential outcome scenarios in confidence and without the pressure that an intense cross-table dialogue may involve. Even if both parties aren't open to this idea, if just one party is, that can be beneficial.

Coaching or consultancy can usually play out over a period of

time too, so points that are reflected upon in one conversation may be put into practice before another, and so a coach or consultant can become a reflective sounding board and support for an individual over the period of time in which they are most likely struggling to come to terms with and work with the situation in hand.

Perhaps more importantly however, coaching especially aims to help individuals reflect deeply on what brought them to their current circumstance and mindset, and when appropriate, enabling them to change this mindset and the range of emotions and behaviours that flow from it. This is especially important in our view because it often produces a sustained change – not a quick fix. This means that the prospect of what may be a very uncomfortable relationship being completely transformed and for the parties that have received coaching to "let bygones be bygones" is very strong. The advantages of seeking an enduring peace are perhaps obvious: individuals will not retain sour grapes and continue to be resentful and demotivated, and the risk of a fresh conflict flaring between the parties again in future will be heavily reduced.

Individuals who are receptive to coaching or consulting but reluctant to consider a mediation dialogue may feel that it is an option that they can explore all more committing themselves to a process [mediation] that might seem to take on a life of its own – something that is very informal and likely to be conclusive, for better or for worse from their point of view. Such interventions don't preclude the prospect for engaging subsequent mediation either, if required, but can help verify what type of mediation (if any) is likely

to be most appropriate for the individuals concerned and also pave the way for both parties being able to come together with a clear perspective about what they want to achieve and having reflected on each other's perspectives as well as their own.

Despite the many similarities, we do recognise that there are some quite specific characteristics for coaching individuals in conflict – not least, the fact that many may be reluctant clients. Dispute intervention is an application of coaching that requires sensitivity to the context in which it's being used, although this is a relatively small gap for most professional coaches to bridge.

Whether or not these "alternative" forms of alternative dispute resolution are appropriate depends very much on the individuals involved, the stage a dispute has reached and the nature of the disagreement in question. However, these are considerations that should also be made when considering possible mediation options. But with the many potential advantages that even very brief coaching or consulting interventions may offer, it seems a sensible step to at least explore their potential whenever some form of third-party intervention is being considered.

These types of "middle way" are usually simpler, cheaper and less stressful for all concerned to engage with, but their potential for setting a peaceful course for the long-term may often be greater than what may be achieved when bringing to individuals to face each other across a conference room table.

The Janus Partnership

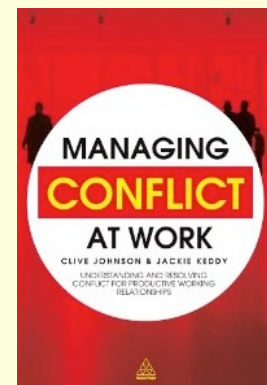
Managing Conflict at Work.

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The Janus Partnership LLP offers a wide range of conflict coaching, conflict management consulting, training and mediation services.

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This article forms part of a series of occasional white papers and thought pieces written by our consultants.



Authors: Clive Johnson and Jackie Keddy (authors of *Managing Conflict at Work* and co-founders of the International Conflict Management Forum).

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