

Mediator Expertise Live Interview (MELI)

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INTRODUCTION

For most English speakers, ‘expert’ — like ‘terrorist’ — defies definition. Just as one person’s terrorist is another person’s freedom fighter, one person’s expert is another person’s quack. And yet, just as English speakers do not have to arrive at a common definition of the word ‘terrorist’ to fear a terrorist atrocity, there does not need to be an agreed definition of what constitutes an expert for individuals to come to rely on experts and their knowledge. Experts are those professionals born of processes of experimentation, failure and success; far from a simple accumulation of experience or a linear trajectory of achievement, expertise comes from the analysis of the experienced profession or discipline and the application of this analysis to future practice. Indeed, the word ‘expert’ itself comes from the Latin experiri, meaning ‘try’ or ‘test’, implying that expertise cannot constitute a mass of experience alone, but that there must be in all experts the ability to accept that flawed theories must be rejected and correct theories accepted, regardless of tribal considerations such as the distinctions between conventionally recognised schools of thought within a profession. Accordingly, some scholars who have written on expertise view it as an attribute of individuals (Simonton, 2006: 323) which is mutable, reflecting various methodologies and many criteria; this measurement of expertise is thus the subject of a considerable literature.

Having said this, authors who address in their writing the issue of expertise seem able to agree on some key points. Researchers who have investigated expertise in a range of professional disciplines consider expertise to be domain-specific; according to Farrington-Darby and Wilson

(2006: 18), experts may be found amongst those accomplished in processes such as decision-making, and it has been argued that expert practice typically takes ten years to achieve, regardless of the field (Ericsson, 2006a: 689). It is with this domain-specific attribute in mind that this paper is written — that is, as a paper not about a generalised expertise applied to mediation, but about mediator expertise as a standalone concept, informed primarily by mediator practice rather than a more abstract concept of expertise.

Following an earlier study of mediator expertise (Wilson, 2011), I consider here the use of live interviews as a training methodology for newly trained and experienced mediators. The methodology I propose involves a mediator with a high degree of expertise being interviewed within a peer learning forum, otherwise known as a community of practice; a community of practice is defined as a group of individuals participating in a similar practice, and focused on practical solutions (Baxter, Prevou and Pruyt, 2008: 4). This mediator expertise live interview (abbreviated to MELI) is not proposed as supervisory, nor as corrective, nor as a form of coaching. Instead, its purpose is to bring forth the expert mediator's account of his or her practice for the benefit of those present. Mediators often lack opportunities to discuss their work in depth within a group setting because of their relatively isolated role; where mediators do take part in group meetings, such gatherings are often taken up with discussions about business and regulatory matters. At a time of considerable change in the field, case discussion can be lost amongst other necessary, but less instructive, material.

MELIs are designed to facilitate the sharing of expertise despite the many factors which conspire to prevent knowledge from passing between experienced professionals, allowing mediators to access rich data of practice and knowledge which might not be found in academic textbooks or training programmes. These improvisational problem-centred aspects of

professional practice have long been identified as ‘theories-in-use’ and posited as valid and useful (Argyris and Schön, 1974; cited in Brookfield 1986: 244).

The MELI model I outline here is one I have developed over time, and draws together elements from some of the literature on expertise, including the work of Klein (1999) and Shanteau (1992). An outline for conducting the MELI is included, with suggested examples of questions designed to elicit aspects of the mediator’s expertise. Ethical, theoretical and practical matters are then briefly discussed, followed by consideration of some of the benefits and limitations of the MELI and concluding with the suggestion of further investigation.

EXPERTISE, COMPETENCE AND MEDIATOR TRAINING

There is a bewildering choice of mediation training courses available worldwide. They are predominantly run by private (that is, commercial rather than academic) enterprises, which vie for a share of the growing market of potential mediators, many offering their own forms of validation or accreditation. This is usually internally awarded, and may simply confirm that a trainee has successfully completed the course, perhaps undertaking some additional tasks such as written assignments or observed role-plays. Trained mediators subsequently claiming expertise may not distinguish clearly — if at all — between their experience as a mediator and their achievements in their discipline of origin (typically law, psychology, mental health, social science and so forth). As a result, their mediation skills may be viewed simply as adjuncts to their primary professions. It is therefore probable that at least some practitioners promoting themselves as expert mediators do not actually possess mediator expertise; however, this critique is valid only if one accepts the profession-specific nature of expertise.

Family mediator training and professional development in this jurisdiction (England and Wales) were the subject of a review by McEldowney (2012), commissioned by the Family Mediation Council (FMC); the review does not make for comfortable reading. It includes a critique of the still current arrangements for the training, development and regulation of family mediators, all of which are problematic and in need of reform. On expertise, McEldowney reports (2012: 12) that:

'[t]he expertise of family mediators is often taken for granted or misunderstood.

The mediator's skill set is drawn from many disciplinary skills ranging from the financial and legal to the social and psychological [...] There is some degree of distrust between legally and non-legally qualified mediators, which may lead to disagreement or professional tensions. Family mediation may be the loser in any professional rivalry.'

It is paradoxical — and professionally embarrassing — that mediators should be accused justifiably in a public report of engaging in conflictual behaviour towards one another. Whilst the review acknowledges several positive aspects of family mediation's organic growth and its struggles for acceptance, it also recommends that mediators should move to a more coherent training and regulatory framework protective of the public interest.

Current family mediation training programmes in England and Wales are relatively brief, often totalling around forty hours. Courses typically require attendance for somewhere between eight to ten days, spread over a few weeks, sometimes with additional tasks such written work to be undertaken between modules. Course content is largely based on skills and substantive knowledge, with little attention to conflict theory. Internships or other situated learning opportunities are few and far between. Considerable resources are required to mentor new

practitioners effectively, with time and cost implications which have long been significantly underestimated (Wilson, 2005). Similar problems exist for commercial mediators, who often find it hard to get post-training referrals (Centre for Effective Dispute Resolution – CEDR, 2012). This can be a considerable challenge for any new mediator needing to gain experience, let alone achieve expertise. Even for those who do find work, it is possible to practise for several years but undertake relatively few cases, a problem which is unlikely to be resolved easily in the foreseeable future.

McEldowney (2012: 38) revisits the concept of expertise, considering it to be located with those he terms ‘senior mediators’. He writes:

‘The PPCs [Professional Practice Consultants] provide an important access to knowledge and expertise. The more experienced and knowledgeable family mediators ought to be given incentives for them to become involved as PPCs. The future of family mediation and its success will largely depend on the ability of senior mediators informed through their own experience and knowledge to influence and contribute to a new generation of family mediators by encouraging best practice.’

The PPC’s role — seen by McEldowney (2012: 27) as important to the maintenance of high standards — is complex. Existing interpretations of the PPC’s functions, such as that found in the Family Mediators Association’s PPC Handbook (2010), may now have been overtaken by McEldowney’s review. The new Legal Aid Agency (LAA, formerly the LSC) also considers PPCs critical to the delivery of publicly funded mediation (Legal Services Commission, 2009). At the time of writing, it is too soon to know which incentives might be offered for practitioners

to become PPCs (2012: 38); nor is it clear how senior mediators' knowledge might be recognised formally, other than through their appointment as PPCs.

The review also recommends that future Continuing Professional Development (CPD) education should be fully assessed and approved through external accreditation (2012: 38). However, unless senior mediators are represented in the construction and delivery of such external training and accreditation, there will be no automatic connection between the transfer of mediator expertise and any training courses which might be deemed approved. This disconnect could undermine the review's reformatory goals. Further, despite questionable claims from various quarters that mediation as practised in this jurisdiction has an established theoretical basis, many practitioners do not engage with theory or seminal Alternative Dispute Resolution (ADR) texts at all (Schaffer, 2012: 1). As anyone with long-term experience of attending training events can attest, being a mediation trainer or CPD provider does not make someone an expert mediator, nor is expertise necessarily evidenced by qualifications which are only skills-based.

Offering a MELI as a CPD event reflects Revans' (1982) seminal work on action learning, although there is some debate as to how action learning should be defined (Brook, Pedler and Burgoyne, 2012: 270). The MELI may also fall within the remit of an action research exercise; Rappaport (1970: 499) describes action research as aiming to contribute both to the practical concerns of people in an immediate problematic situation and to the goals of social science by joint collaboration within a mutually acceptable ethical framework. Yeadon-Lee (2014: 3 in press) problematises Revans by observing that his concept of 'comrades in adversity' is challenged by Vince's (2004) notion of 'adversaries with commonality'. She contends that Vince's view suggests that some aspects of interpersonal relationships experienced by people who attempt to learn from one another can sometimes be complex and difficult. Yeadon-Lee's

remarks are relevant to the mediation field; most mediator CPD training is not organisational in the sense that it is seldom delivered to corporate entities, except possibly where these employ teams of mediators. Many mediators instead function alone and independently, and are contracted in to deal with specific disputes. They may be self-employed, have their own private practices and can vie directly with each other for clients, based on factors such as geography, specialisation or cost. The work that unites them may therefore also be the source of competition between them.

Despite these tensions, most practising mediators are required to obtain a prescribed number of CPDs every year in order to meet ongoing practice requirements and maintain their insurance cover. CPD events are typically run by a very limited pool of approved trainers, many of whom are themselves practitioners and thus potential competitors with those attending. While such gatherings may serve the needs of Revans' comrades in adversity, they may simultaneously highlight the fact that at least some participants could find themselves in the position of Vince's adversaries with commonality. Political tensions may ensue, leading to variants of 'learning inaction' (Vince, 2008: 1) and – often unrecognised – collusion to create limitations on learning. The MELI described here attempts to attend to some of these problems by connecting the community of practice directly with an immediate account of expert practice, rather than conventional taught input from longstanding trainers. Exploring one's practice through a detailed interview process in the presence of peers is a somewhat risky venture, potentially endangering both 'face' and reputation. Nevertheless, and while acknowledging these risky elements for the interviewee, the MELI provides an opportunity for dynamic knowledge sharing and enrichment of what is often an otherwise somewhat staid training discourse.

NATURE, NURTURE, REFLECTION — OR COMPLEX INTERACTIONS?

Historically, most mediators learned ‘on the job’ as an extension of their existing occupations. This can be seen in Honeyman (1988: 151), who writes of a former apprentice-style training of employment relations practitioners in the United States who were cross-trained to function as mediators, arbitrators and administrative law judges. He describes trainees as undergoing ‘[r]oad training [...] a few nights on the road — with luck as many as 15 — watching a variety of seasoned co-workers mediate labor disputes, in turn being watched by them and talking over the problems in the hall, between sessions and afterward.’

At the time, this process resulted in trainees being deemed sufficiently qualified to take their share of what was then a burgeoning caseload. In Honeyman’s view, this training worked adequately only for people naturally inclined toward mediation. During 1985-86, Honeyman and various colleagues researched the training mechanism described above. Five leading mediators were chosen for the research project, based on the demonstrated consistency of their results, the maximum possible character variations between them, and their known styles. The researchers’ particular focus was to explore the mediators’ styles, following a realisation that each selected mediator had evolved a modus operandi of almost organic quality. The practitioners were known to work in very different ways, although — for the purposes of the study — they were placed in situations which were as similar to each other as possible. Honeyman’s findings are presented as suggestive rather than conclusive positing that, for practical purposes, mediation skills can be divided into six identifiable elements, i.e. investigation, empathy, persuasion, invention, distraction and substantive knowledge.

Honeyman’s observations are still likely to hold true, both with regard to mediator strategies and the diversity of personalities and backgrounds currently represented amongst

skilled mediators. However, his comment about those ‘naturally inclined’ to become mediators raises the question of whether there are indeed natural mediators (Benjamin, 2001). If there are, these practitioners will presumably demonstrate a higher than average standard of competence as a consequence of their innate abilities. But there are other possibilities. Cianciolo et alia (2006: 613) argue that, although expertise is often conceptualised as attributable to largely inherited characteristics or learning histories, the study of expertise may represent an opportunity to observe developmental mechanisms operating at maximum efficiency.

Given the typically intensive nature of the mediation process, it is also likely that a mediator’s expertise may be inseparable from his or her ability to form optimum working relationships with the parties. Such relationships may be akin to the therapeutic alliance as described by psychotherapists and mental health professionals. Lambert and Barley’s (2001: 357-61) research summary of therapeutic relationships and outcomes identifies the therapeutic alliance as the context in which specific techniques exert their influence, and as a primary curative component of therapy. Whereas the juxtaposition of mediation to therapy has been vigorously contested by some authors, others contend that the mediator’s relationship with the parties is of the greatest consequence. This view is supported by Baitar et alia (2012: 467), who make the following recommendation as a result of their research in Belgium:

‘Similarly, our results suggest that dispute resolution professionals should shift from traditional adversarial and reserved professional attitudes toward behaviors that convey more warmth, authenticity, and caring.’ This appears to confirm Honeyman’s conclusions (as well as Wilson, 2011:11) that there are natural mediators, since such personal qualities are not necessarily susceptible to development or transfer through training.

In *The Making of a Mediator: Developing Artistry in Practice* (2000: 145), authors Lang and Taylor cite Schön's (1983) assertion that experts are professionals wedded to a model of practice. According to their reading of Schön, experts are grounded in the belief that individuals can acquire a body of knowledge that yields an effective and competent solution when applied to a problem. This analysis of Schön appears to potentially create an unwarranted dichotomy, seemingly favouring reflective practitioners over experts. Although Schön's model intends that reflection be followed by action, it is possible to reflect on one's practice without acting on such reflection, and thus make little progress as a result. Schön is not without other critics; Greenwood (1998: 1049), citing Greenwood (1993), rejects the Schönian model of reflective practice as fundamentally flawed on the grounds that it fails to recognise the importance of the reflection that takes place *before* action (emphasis original).

So, in my view, making distinctions between experts and reflective practitioners is an artificial construct. Expert mediators who have undertaken the requisite thousands of hours of practice and deliberation necessary to achieve expertise are hallmarked by a commitment to lifelong learning (Adler, 2003), and are seldom complacent as might be suggested by certain readings of Schön's ideas. Whilst it is possible to remain static and barely competent in any occupation, there are no shortcuts to achieving expertise. Simply put, you have to put in the hours.

Whilst some relatively inexperienced mediators claim expertise, others who are highly skilled may be reluctant to describe themselves as experts. Practitioners' reticence to admit expertise may mean that they are underrating their highly developed abilities and knowledge, and the levels of client satisfaction and demonstrable outcomes evidenced in their work. Although these may not be indisputable benchmarks of expert practice, it would be difficult to argue that

mediators who seldom witness the resolution of any conflicts in which they are involved are nevertheless experts. However, recognised expertise is not the automatic basis of referral to a particular mediator; referrals sometimes reflect a practitioner's reputation for providing a certain type of work, self-promotion, previous or anticipated connections with the referrer, or economic, geographic or other factors that are not necessarily evidence that the mediator is an expert. In summary, and as argued by Farrington-Darby and Wilson (2006: 20), the development of expertise is therefore likely to be the product of complex interactions between person and place.

ELICITING EXPERTISE AS A TRAINING MODEL

In his cross-cultural work, Lederach (1995) has developed an elicitive method of training, which draws on the existing knowledge and wisdom of those participating. Although Lederach concedes that he has not completely abandoned all prescriptive approaches, he critiques his earlier training programmes as subtly embedded with the unintended residue of imperialism (1995: 38), based on cultural assumptions which are essentially North American (1995: 99). For Lederach, this realisation generated new training formats, recognising the relationship between the trainers and the participants at both conceptual and practical levels:

'[t]he key is not choosing between one or the other, but rather the expansion of trainer repertoire to make both possible and therefore appropriate to the variety of settings and groups we trainers engage.'

Lederach's elicitive training is a response to cultural diversity, and is respectful of difference. But there is no reason to restrict elicitive methods to settings specifically deemed cross-cultural; the professional development of mediators may be generally enhanced by a form of elicitive training, such as the use of MELIs. Further, substantial expertise may be lost when senior

mediators retire or stop practising for other reasons; similar concerns led Alkenbrack (2009: ii) to conduct research with adult literacy teachers nearing retirement. Although experience should not be automatically conflated with expertise, undoubtedly many senior mediators are very highly skilled. When they step down, their wisdom, theoretical constructs and skills are no longer available to others, especially if these practitioners were not trainers or authors during their careers. Eliciting their knowledge – while it is still possible to do so – can be of great benefit to others, including fellow expert mediators. In a field largely dominated by North American texts and concepts since its inception, it is certainly time for indigenous theoretical constructs to be articulated and disseminated in this jurisdiction.

The MELIs described in this paper took place within professional development workshops and advanced training courses. Practising expert mediators were interviewed on each occasion, and were group participants rather than external consultants or international speakers. Interviewing someone who is already attending a training event as an audience member disturbs the notion that expert mediators must be charismatic authors, conference circuit speakers or other prominent people. Mediators need to develop both domain-specific and localised knowledge, and practices evolving in any jurisdiction will reflect various constraints and cultural norms. This can make it difficult to learn from trainers based in other jurisdictions who assume their own standpoint is a global norm (Lederach, 1995: 65). In order to elicit relevant expertise, it is therefore appropriate to interview locally embedded experts within a community of practice forum. With regard to the problems surrounding the unreliability of recall, Petitmengen, Remillieux, Cahour & Carter-Thomas' (2013) research provides a recent critique of Nisbett and Wilson (1977) much-cited conclusion: 'There may be little or no direct access to higher order cognitive processes'. Nisbett and Wilson's original findings were supported by similar research

conducted by Johannson, Hall, Sikström & Olsson in 2005. However, Petimengen et al (2013) found that their research subjects demonstrated statistically significant recall following the use of an additional elicitive interview protocol as part of the research protocol. They write (p.667):

“Our experiment confirms that naïve descriptions of our decision-making processes are usually poor and unreliable. However, it shows that it is possible to access these processes by carrying out specific acts consisting in evoking the process and directing one’s attention towards its different dimensions.”

PREPARING FOR THE MELI – PERSON AND PURPOSE

The format suggested here may fall within the remit of cognitive task analysis, although the methodology described is eclectic, being based loosely on Flanagan’s (1954) critical incident technique, Hoffman’s (2005) protocols for cognitive task analysis and Baxter, Prevou and Pruyt’s (2008) work. Flanagan’s is one of numerous task analysis structures which have been used to capture workplace knowledge for research and training purposes. Further authorities who have extensively researched expertise modalities include Klein (1999), Crandall, Klein and Hoffman (2006), Ericsson (2006b) and others.

The MELI differs from the recounting of what DeSanto (2001: 64) calls ‘war stories’. According to DeSanto, a war story is the sharing of experiences from personal professional practice, and is often used as a training technique for active learning. In the methodology she describes, presenters distribute learning guides in advance of their presentations, in which they cover items such as the case history, suggested applicable research, situation analysis and overall evaluation of aims and objectives. However, for the purposes of the MELI model, the mediator is asked *not* to prepare in advance, although their general consent to being interviewed will of

course be necessary at the outset. The interviewee may decline to take part, although so far everyone approached has been willing to engage with the MELI. The choice of interviewee is clearly critical, and identifying a suitable person to approach — without appearing to single them out unduly — may itself be a sensitive matter. However, feedback from group members and interviewees so far has been very encouraging, and confirmed the format's potential benefits as a training intervention.

Despite the fact that DeSanto's model has much to offer as a training exemplar, there are various reasons for asking the mediator not to necessarily discuss a war story as evidence of their expertise interview. Any mediator who agrees to being interviewed at a training event is likely to expect questions about their practice, and practitioners asked to speak at mediator gatherings tend to mull over and refine the telling of their war stories. However, one purpose of asking someone not to rehearse or otherwise prepare is so that the interview can be as extemporaneous as possible, and thus bear some resemblance to witnessing that mediator in action. The MELI has some similarity with Orland-Barak and Yinan's (2005: 563) description of sharing critical incidents at practitioners' monthly meetings in a related activity (mentoring):

' [...] we assumed that mentors' recall of memorable incidents that posed challenges and obstacles to their practice can constitute an important window into understanding how expertise operated in their work.'

Whereas the group experience described above is a very useful way of disseminating practice, it may perhaps be closer to the telling of war stories than participation in an expertise interview. The probing and clarifying questions used in a MELI are aimed at gaining access to the interviewee's cognitive processes, theoretical bases and rationale for the actions taken during a critical incident in their practice. It draws out a narrative response, but this may or may not be a

war story. A primary purpose of the MELI is to elicit the mediator's thought processes, and how these determined the decisions and actions s/he took (or did not take) at the time. The incident the interviewee chooses to discuss does not need to be particularly dramatic or exceptional. It can be anything s/he considers significant: for instance, how an intake meeting was handled; how a sequence of heated exchanges was managed; or how s/he dealt with someone who walked out of a session.

Expert mediators typically use a repertoire of questions as a primary form of intervention. Questions tend to emerge dynamically to meet the demands of the conflict in which the mediator is engaged, and the MELI emulates this questioning process. Further, the unrehearsed nature of the MELI means that a degree of mutual trust is necessary between interviewer and interviewee. Establishing the interviewer and interviewee's confidence in each other mirrors mediators' ability to create trust between ourselves and our parties. This trust, essential to expert mediator practice, relates to the therapeutic alliance mentioned above. The strategic decision to ask the interviewee not to rehearse an incident may have the effect of encouraging everyone present (including the interviewer) to gain unexpected insights from the interviewee's spontaneous account, as those participating will not know in advance which direction the MELI will take. Other group members can benefit from these insights when they later encounter uncertainties and ambiguities in their own practices, to which they need to respond spontaneously. Other learning outcomes might be the affirmation of one's own work, identification of more effective strategies, or insights into different theoretical constructs about practice.

The ethical stance of both interviewer and interviewee is fundamental, since the interview's purpose is educative and aimed at knowledge sharing through the exposition of experience. Clients' names and any other identifying information must be anonymised, which

can be challenging in a live context; sensitivity is also essential when recounting events which may have been difficult for those involved. Crucially, the purpose of the MELI is not for the interviewer to test hypotheses, nor to check whether the interviewee's account complies with a particular mediation model, ideology, or is otherwise 'orthodox'. When taking the role of interviewer, it is essential to check any personal impetus to interpret or edit the interviewee's account, or draw attention to one's own predilections. There is therefore a degree of risk and safe uncertainty in the process (Mason, 2005), both for interviewer and interviewee, which further parallels the mediation process.

METHOD

The MELI method adopts a staged process and semi-structured interview techniques for sessions usually lasting about an hour and a half. The staged process uses Klein's (1999: 189-196) four 'passes' process, in which the interviewer initially takes joint responsibility with the interviewee for identifying the incident practitioner feels is particularly important, and which they would like to share with their colleagues. The four passes (based on Klein, 1999: 190) are therefore:

- (1) to identify and hear a short version of the mediator's chosen story;
- (2) to re-hear a fuller telling of the story;
- (3) to probe the mediator's thought processes regarding the incident; and
- (4) where time permits, to facilitate a comparative discussion of each choice (decision-making) point, including asking the interviewee's opinion of how a novice practitioner might instead have acted at that juncture.

Klein also suggests that any important timing issues should be identified, and that a whiteboard is useful for visually tracking the sequence of events. The interviewer uses open, probing

questions, following elements of Hoffman (2005) and Baxter, Prevou and Pruyt (2008), who cite various expertise authorities including Klein. Baxter et al (p.6) propose that:

'[t]his elicitation technique is organized around knowledge categories that have been found to characterize expertise: diagnosing and predicting, situation awareness, perceptual skills, developing and knowing when to apply tricks of the trade, improvising, metacognition, recognizing anomalies, and compensating for system limitations.'

In addition I have developed some questions regarding the relevance of theory and the alternative dispute resolution literature to expert practice.

The interviewer and interviewee begin by introducing themselves briefly, confirming that the interviewee's consent has been given, and explaining that the session involves an interview rather than the delivery of a prepared case study. A short explanation of the purpose of the interview is given, which is to facilitate the movement of knowledge within this community of practice through discussion of a critical incident. The interviewer gives an overview of the four passes and requests that group members note any questions they might wish to ask after the passes have been completed. The interviewer then begins pass 1, during which the interviewee is asked to identify a tough case or non-routine event they have dealt with, and where their skills 'made a difference'; this may result in the interviewee identifying an incident which may not offer sufficient learning value (Klein 1999: 189). The interviewer is looking to gain information about what the mediator thought and did in a specific situation, rather than a description of what s/he would usually do in similar circumstances. There are obvious risks at this point, as the interviewer is trying to elicit a useful example of practice without being overly directive. Sometimes the interview takes a while to develop, and the interviewer and interviewee may need

to work together in front of the group to narrow their choice of incident. Once a suitable incident is identified, the interviewer moves to pass 2, asking the interviewee to tell the story in full. Here, the interviewer tries not to interrupt the account, but may ask clarifying, non-directive questions supportive of the interviewee's narrative, aimed at establishing the best possible representation of events.

The interview then moves to pass 3. Critical incidents, even if brief, are often chaotic and messy, and sometimes it can be difficult to establish exactly what happened as an event developed. The questions suggested here come from various places in the expertise literature; they are not intended to be prescriptive, sequential or exhaustive, and can be easily adapted as the mediator recounts the incident. Interviewers may choose to write their questions (or variants) on a crib sheet, although using as few prompting materials as possible helps to keep the interview process fluent. Of particular interest to practitioners is how to manage conflicts of interest, which is a core feature of mediation practice, and some of the questions are aimed at eliciting how these issues were addressed during the incident.

The third pass involves elicitive questions based on the interviewer's genuine curiosity and openness to the mediator's answers. Although this paper does not list all the question types which might arise in pass 3 of the MELI, some of the detailed questions asked might include:

- Regarding the incident you've just described, what were your initial reactions?
- Which behavioural features did you expect to see at this point, and what did you actually observe?
- What, if anything, was unusual about this case?
- How did you feel about the situation?
- What did you consider doing, and what made you choose the intervention you chose?

- What caused you to reject the other options open to you at that point, and did you at any stage reconsider any of the options you had discarded?
- How did you know what to do at that moment?
- What would you have done if x hadn't happened?
- When you decided to say x to party a, what thoughts, if any, did you have about how party b would react?
- Did you observe that party b's reactions were as you expected, or not? Did that reaction raise any issues for you?
- Did you have any particular thoughts about the conflict at this stage? If so, did you act on them?
- Did your approach make a difference? In what way?
- What might have happened if you hadn't done/said that?
- Is there anything that you observed which made you change course? If so, what? How did you change course?
- How would you explain what you did to someone else?

The fourth pass examines how the expert mediator's practice has developed, and how s/he might consequently behave differently from a novice. Questions — again, non-exhaustive — might include:

- If you could have had some advice about how to deal with this situation, what would it have been?
- Looking back, was there anything that you would have changed about how you dealt with this incident?
- What might a novice mediator have done when x happened?

- Which factors do you think someone with less experience might have missed? How could someone with less experience learn to practise effectively in the situation you've described?
- If you had been involved in this case 5 years previously, would your interventions have been the same?
- What has contributed most to the way you now practice?

Questions eliciting the application of theory might include:

- Did you find any particular conflict theory helpful in dealing with this situation?
- What made that theory particularly useful at that point?
- Were there any other relevant theories you might have used?
- Have you been influenced by any particular mediation model?
- If so, what has proved useful about that model? Would you say that model is always useful or appropriate?

It is also possible to extend the interview to include general discussion about training and professional development:

- Did your training include how to deal with this type of incident?
- Have you had the opportunity to observe other mediators handling similar situations? Did you find that beneficial or not? Can you say more about that?
- What gaps, if any, do you see in current training?
- Are your views about practice changing? If so, how?
- In your opinion, what are the qualities of an expert mediator?
- Are there any texts about conflict resolution which you consider essential reading?
- If you had to pass on one piece of advice to other practitioners, what would it be?

- Finally, is there anything that I haven't asked you today, but which you would have liked me to have asked?

Depending on the interview's direction, supplementary questions may obviously be indicated at any point; questions should remain appropriate, focused but not inquisitorial. When the interviewer feels that his/her own role has come to an end, s/he may draw the four passes to a close and throw open the interview to the group. Here group members may want to ask their own questions. My experience is that these questions have been similar in tone to the four passes, and have not been unduly challenging or controversial. Although it cannot be assumed that MELIs will be of equal value to all participants, they have been generally useful to date, and have shown appreciation for the interviewee's sharing of his/her practice.

LIMITATIONS, BENEFITS AND FUTURE RESEARCH

Interviews have disadvantages and benefits, some of which have already been recognised and discussed above. Klein (1999: 191) observes that interviewing is not easy; the interviewer may lose focus, and interviewees may find it challenging to undertake this level of introspection and analysis in a group setting. The interviewer should be sensitive and avoid tiring the out interviewee. There is also a natural tendency for interviewees to fall back on generalities and descriptions of their usual practices, using phrases such as 'I always/never...'. It is the specificity of the incident that allows expertise to be articulated; however, describing in depth anything one does skilfully is far more difficult than might at first be assumed, and requires that both interviewee and interviewer stay focused.

Any type of research is potentially problematic, and the shortcomings of interviews as a research methodology have been widely discussed for many years. The MELI is no different,

especially as it engages a mixture of topics and strategies. Interviewees may discuss interventions which might be considered idiosyncratic, or out of line with particular models of practice. Research undertaken by practitioners may constitute a political process (Alkenbrack, 2009: 232), and is still generally considered less reliable and valid than that of ‘qualified’ researchers. However, it is important to note that all research is filtered through human foibles of some sort. In Gilligan’s seminal discussion with Kohlberg about the moral development of children, Kohlberg justified his failure to include girls in his theory-building because their responses did not fit his schema, nor make sense in his terms (Gilligan, 1994: 18). Debates concerning who may create or own knowledge are the subject of an epistemological canon too extensive to cite here. Whilst the MELI may contribute to knowledge about how our thinking as mediators informs our actions, it does not claim to comply with conventional empirical research methodology.

CONCLUSION

The conduct of MELIs described here is nascent, and has not yet been researched for training purposes. Their structure, method and ethical tenets derive from many sources, and the process is offered as an additional means of developing knowledge management and sharing in the field of mediation and conflict resolution. Informal feedback suggests that practitioners who have observed MELIs — as well as the interviewees themselves — have found the experience worthwhile. Empirical research investigating live expertise interviews may now be needed, to establish whether they are useful as a formalised training vehicle for mediators.

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