



SCHOOL OF PSYCHOTHERAPY  
& COUNSELLING PSYCHOLOGY

Mediation  
Prospectus



08/09





## Contents

### Course Recognition

Alternative Dispute Resolution: A Course in Skills for Successful Mediation offered by the School of Psychotherapy and Counselling Psychology at Regent's College has obtained the following recognition:

Approved by The Law Society for the purposes of entitling the School's Accredited (solicitor) Mediators to join the Law Society's Civil/Commercial Mediation Panel

This course has been accredited by Law Society and The Bar Council for CPD purposes.



Approved by **The Legal Services Commission** as a **Mediation Course** Provider in the Funding Code Manual.

The School of Psychotherapy and Counselling Psychology is a registered Academic member of the **Civil Mediation Council (CMC)** and is at the forefront of assisting in the research, development and promotion of mediation both in the UK and internationally.

A Welcome from Mr Paul Randolph	1
The School of Psychotherapy and Counselling Psychology	2
The Course	3
Accreditation	4
The Skills	4
Objectives	5
Course Outline	6
Assessment	7
Frequently Asked Questions	8
Other ADR Courses	10
Scepticism about Mediation	11
Cycle-logical Mediation	13
ADR Faculty	15
Some Comments by Recent Course Participants	17
Application and Course Fees	18



## SCHOOL OF PSYCHOTHERAPY & COUNSELLING PSYCHOLOGY

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## A Welcome from Mr Paul Randolph



### SCHOOL OF PSYCHOTHERAPY & COUNSELLING PSYCHOLOGY



**Paul Randolph**  
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The School has an international reputation as one of the UK's leading therapeutic training institutions, delivering professional training and academic education in psychotherapy, counselling and counselling psychology, from Foundation level to Doctorate.

The School of Psychotherapy and Counselling Psychology at Regent's College offers an innovative ADR programme specifically designed to develop the particular skills and methods required for successful mediation, and conflict management generally: conflict resolution and conflict avoidance. The School recognises the fact that skills for effective mediation run parallel to those required for successful counselling, and so the course employs established and well-proven methods of psychotherapy and counselling, developed over many years and applied in a wide variety of situations.

This uniquely-developed psychotherapeutic approach to mediation examines the underlying reasons for conflict. It explores the strategies that parties employ when in dispute with others, whether they be executive directors of international corporations involved in multi-million pound commercial litigation,

or Heads of State involved in political disagreements, or simply suburban neighbours arguing over their boundaries. The School teaches participants on the course how to identify underlying areas of controversy and tension, and to deal with the rigid confrontational attitudes invariably adopted by parties in such situations. In this way the course is designed to revolutionise the participant's perception of conflict, so that a new and valuable tool in dealing with disputes is presented and made available to them

The psychotherapeutic approach in the School's mediation training is an extremely straightforward, practically-minded and attractive approach to conflict resolution. It is equally applicable in commercial disputes as it is in other more personal disputes, and highlights the behaviour patterns people adopt in any conflict situation. Thus the skills acquired on the course will fully equip the successful participant to deal with all commercial and other mediations, whether the strictly time-limited models of mediation as adopted by many Court-annexed schemes, or the more open-ended mediations without a strict time limit. The skills will also prove invaluable in all areas of life, whether dealing with clients, opponents, witnesses, colleagues or staff, or in executive coaching – indeed in any situation where both skills in conflict avoidance and conflict resolution are required.



## The School of Psychotherapy and Counselling Psychology

The School of Psychotherapy and Counselling Psychology at Regent's College (SPCP) is located in extensive grounds in Regent's Park, in central London.

SPCP has been in existence in its current form since 1990, but it grew out of an innovative Masters programme in humanistic psychology which was established in 1977 and accredited by Antioch University, USA. The MA in Psychotherapy and Counselling course obtained British validation with City University, London, in 1991, while the MA in Counselling Psychology/Post-MA Diploma in Existential Counselling Psychology obtained validation from City University and accreditation from the British Psychological Society from 2000. Validation by City University for the MPhil/PhD programme was granted in 1992.

Validation of the MA/PGDip in Psychotherapy and Counselling, the MA in Counselling Psychology, the new Professional Doctorate in Counselling Psychology (DCounsPsy) and the MPhil/PhD in Psychotherapy and Counselling was transferred in November 2005 to the University of Wales for a five year period.

Validation is a rigorous process of course approval during which the course details are scrutinised by a panel of both University staff and external advisers with appropriate professional expertise, and represents a significant endorsement of the quality of SPCP's training which is shown fully to meet the demanding criteria of the UK higher education sector's Quality Assurance Agency.

### SPCP Courses

- Foundation Courses
- MA/Post-Graduate Diploma in Psychotherapy and Counselling
- Advanced Diploma in Integrative Psychotherapy
- Advanced Diploma in Existential Psychotherapy
- Professional Doctorate in Counselling Psychology (DCounsPsy)
- MPhil/PhD in Psychotherapy and Counselling Studies

### Other Activities

- Consultation Centre
- SPCP Book Series published by Sage



## The Course

The course adopts a dual approach of law and psychotherapy and counselling. It is underpinned by case studies, many of which are based upon classic leading legal authorities, supplied and adapted by Paul Randolph (a practising Barrister and Course Director), and further underpinned by Dr Freddie Strasser's (Psychotherapist and former Joint Course Leader) published books *Emotions* (Duckworth) and *Existential Time Limited Therapy*.

The course is aimed not only at prospective professional mediators, but also at all persons who are likely to encounter conflict on a day-to-day basis. Over the past few years, psychotherapeutically-informed mediation has been taught to barristers, solicitors and other professions, the vast majority of whom have gratefully acknowledged the profound impact it has had upon them both personally and professionally. The unanimous feedback from course participants is that the psychotherapeutic approach in the School's teaching provides an additional insight into the psychology of conflict, giving them an "edge" over mediators trained elsewhere.

While the School's emphasis in the past has been largely with the legal profession, the substantial success of the course, and the respect it has earned by those who have participated in the programme and by many other

mediation providers, has convinced the School that this novel stance toward mediation can be of benefit to a diverse range of professions and expertise.

In order to prepare and assist our students more readily to deal with the difficult problems presented by strictly time-limited Court-annexed mediation schemes as operated in many County Courts throughout the UK, the course has recently been extended so as to include and cover some of the psychological aspects of time-limited mediation. This is again based upon some of the principles and theories borrowed from *Existential Time-Limited Therapy*, as taught at the School. This part of the course will enable our mediators to understand the core phenomena and characteristics of working in a strictly time-limited environment, and to recognize and distinguish these characteristics from those of more 'open-ended' mediation.



## Accreditation

Successful participants on the course will achieve Accreditation granted by the School, and may then hold themselves out, commercially and legally, to be fully Accredited (SPCP) Mediators.

The School's accreditation is now widely recognised and respected. In April 2001, the Legal Services Commission added the School's name to the Legal Services Commission Funding Code Manual, declaring that mediators accredited by the School (together with certain other bodies) "will be regarded as suitably qualified and capable of being funded under [Legal Aid] certificates". The Judicial Studies Board also added the School's name to the list of Mediator Providers which was circulated to Judges and Courts throughout the UK. The Law Society carried out an extensive "matching exercise" for the purposes of 'vetting' the School's course, and have granted it full recognition and approval

for the purposes of their Civil/ Commercial Mediation Panel. Both the Law Society and the Bar Council have granted CPD accreditation for the course.

The Accreditation given by the School is now clearly on a par with – if not ahead of - that of other course providers. We believe that the market is beginning to actively seek out mediators with an insight into the psychological aspects of conflict, and so now appreciate the special qualities and effectiveness of a mediator trained in the psychotherapeutic approach to mediation developed by the School.

## The Skills

### The course equips participants with skills to:

- become an Accredited Mediator;
- successfully resolve commercial, industrial, domestic and legal disputes without the need to resort to the Courts;
- positively handle a wide variety of "difficult situations" in all areas of commercial, industrial, domestic and legal disputes;
- quickly 'read' emotions and accurately assess the aims of other parties, whether individuals or organisations;
- work in a strictly time-limited environment;
- prevent disputes running out of control and overcome the frequent impasse in negotiations;
- recognise the onset of deadlock and how to avoid it;
- break the deadlock and reach a settlement;
- improve employer/employee relations and develop a beneficial climate in the work-place;
- develop more effective decision-making and 'solution-finding' by identifying value systems, behavioural patterns and vulnerabilities
- generally manage conflict effectively.

## Objectives

### The programme offered by the course:

- explores the strategies people adopt in conflict situations;
- demonstrates how emotions interact on parties in dispute and teaches the skills required to listen to and accurately gauge others' emotions;
- demonstrates the importance of 'self-esteem' in affecting the outcome of a dispute;
- explores the impact of uncertainties and inconsistencies in the market place;
- explores the ways in which individuals and organisations develop their values;
- investigates how values can become inflexible, leading to dogmatic behaviour and rigid attitudes;
- investigates how individual self-confidence and vulnerability affects dispute situations, whether in the workplace, in the domestic or commercial sphere, or elsewhere;
- explores the paradoxes and polarities of human behaviour in conflict situations;
- identifies the influence of company culture;
- investigates the advantages and limitations of 'positive thinking' in the process of mediation;
- explores the effect of hierarchical relationships and the effect of power in the context both of conflicts and mediation;
- teaches prospective representatives at mediations how effectively to 'handle' the mediator in order to secure a productive outcome;
- explores how parties in conflict behave in a strictly time-limited environment, and demonstrates some of the skills and techniques that a mediator may use to overcome the difficulties precipitated by limitations of time.



## Course Outline

The nature of the course and the methodologies used require each course to be limited to a maximum of between 12 and 16 participants. This maintains an intimate and appropriate environment for the course and ensures maximum benefit is derived by each student. The course teaches participants how to communicate effectively in both a professional and a personal environment, an ability which may be used far beyond the narrow realm of mediation. Ethical considerations are emphasised so as to prevent abuses of the skills acquired.

The courses generally run on Friday and Saturday over two weeks (a total of 4 days) and are divided into:

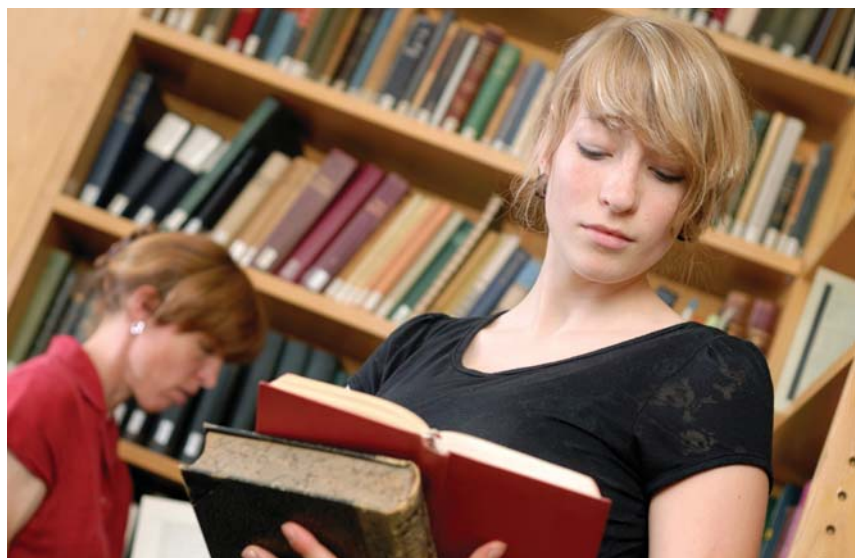
1. Lecture;
2. Training Skills with exercises and demonstrations;
3. Mediation Role play under supervision.

The course also concentrates on mock mediations, with ample periods of feedback and discussion within each session. The secret of the course's considerable success is its emphasis on the experiential, and the high ratio between tutors and students: there is 1 tutor per 4 students, who participate in a total of 16 mock mediations, each lasting on average 1 hour, except for the

last 4 mediations taking approximately 1½ hours. Each participant on the course generally acts as the Mediator in no less than 4 cases, and role-plays one of the parties to the dispute in the remaining 12 mediations. Many of the case-studies are based upon classic "chestnut" legal cases, with a number of added case-studies to illustrate a wider variety of conflict situations.

### Tailor-made or In-House Courses

The School is also able to provide mediation courses especially tailored to particular sectors. In conjunction with University College London and the London Shipping Law Centre, the School has provided a course specifically aimed at shipping lawyers, and supplied a course specifically for the Princes Trust, for Employment and HR personnel.



## Assessment

Assessment is on a continuous basis, with a final assessment in the last 2 sessions (the final day). The criteria upon which the assessment is based are set out in the 'Mediation Assessment Guidance Notes' issued to each participant prior to the start of the course. At the conclusion of the course, participants are given the task of completing and returning a "self assessment", together with drafting a "Heads of Agreement" document, prior to the School's final assessment of their competence and effectiveness as mediators.

Those who upon final assessment are considered not to have reached the School's required standard of competence are offered the opportunity of attending a one-day Refresher Course at the conclusion of which they will be re-assessed.



## Frequently Asked Questions

### *Do I need to be a lawyer to come on the course?*

No. We have students from many other professions and occupations on our course: accountants, architects, surveyors, bankers, housewives, psychotherapists, management consultants, students... etc, etc. It is true that approximately 50% who come on the course tend to be lawyers (barristers and solicitors), and the course is based upon mediation in a litigation environment, with many of the mock mediations taken from classic legal cases. Nevertheless, the course is aimed at a much wider audience, in fact, all those who deal with conflict on a regular basis.

### *Who grants the Accreditation, and how widely is it recognised?*

The SPCP grants its own accreditation, just as individual Universities grant their own degrees. The SPCP's course has been fully vetted by the Law Society Training Standards, and the accreditation has been approved for the purposes of the Law Society's Civil/Commercial Mediation Panel, to which you (if you are a solicitor) may be eligible to apply upon gaining Accreditation. The Bar Council has also approved the course and recognises the Accreditation. Similarly, the Legal Services Commission recognises our accreditation, and the LSC Funding Code Manual now includes the School's name on the list of approved Mediator Providers, entitling them to 'Legal Aid' funding (see the LSC Manual extract in the brochure). As a result of this, the Judicial Studies Board included the

School's name in the list of Mediator Providers circulated to all Judges and Courts in the UK. At the time of going to print the SPCP is negotiating with the Chartered Institute of Arbitrators (CIArb) to secure Approved Status for our Mediation Course, so that all alumni of the course will become eligible for Associate Membership of the CIArb. If necessary, please check with the Academic Course Administrator.

### *Is there work available for a mediator and how will I be able to find it?*

Securing a flow of work as a mediator; at present, is not easy. Accredited mediators will need to acknowledge that they are starting out on a new career, and so will need to spend a certain amount of time and effort in marketing themselves as mediators. However, there are a huge number of disputes out there crying out for mediation. The courts have a backlog of a large variety of commercial and other disputes; the NHS has a huge backlog of Clinical Negligence cases awaiting resolution; Schools and Parents are increasingly in conflict; employers and employees would benefit from mediation of their disagreements, without the need to apply to an Employment Tribunal. Housing, police, education, transport, the armed services, are all areas where disputes abound, and where there is an increasing need for accredited mediators.

The SPCP is an academic institution and not a mediator provider. Nevertheless, the School tries to assist its graduates in



finding mediation work, although it is not easy. Our graduates from the course are put in touch with and are eligible to join a number of Mediation provider organisations. These organisations may charge an annual fee in order to place you on their panels of mediators. Then, when they receive an inquiry for a mediator, they search their panel database, and match the most appropriate mediator to the dispute. The School has made arrangements with The ADR Group, and Talk Mediation, both providers of mediation work throughout the UK, InterMediation, a major London company specialising in marketing mediators and C.A.L.M. (Confidential & Local Mediation) a voluntary organisation specialising in London Local Authority mediations. Hopefully these and other mediation panels will provide the School's accredited mediators with a realistic prospect of securing mediation work.

At the time of going to print, the School is working on constructing a database of all 'graduates' from our courses, which members of the public can access directly through the School's website. This will provide a unique opportunity for our alumni to place material information about themselves on the web, and for potential mediation clients to investigate, select and contact them directly for the purposes of, hopefully, appointing them as a mediator in their dispute.

Otherwise, it is up to you to market yourself. How much work you secure will depend upon how actively or aggressively you market yourself. If you have a special expertise in a particular area, or a niche market to whom you can promote yourself as a mediator, and you send a brochure to those within that market, or mail shot all insurers, lawyers, accountants, Citizens Advice Bureaux, schools, hospitals, police stations etc, the chances are you will get enquiries!

### ***How much can a mediator earn?***

The average fee for a mediator is around £1,500 to £2,000 for a full day's mediation, including some preparation. Payment of this fee is usually shared by the parties. Most mediations take only one day, but the fee will be higher or lower as governed by a number of factors: the complexity of the dispute, the amount of reading and preparation that the mediator will be expected to do prior to the mediation; whether the mediator is required to undertake any administrative duties, such as photocopying, sending papers from one party to the other etc, etc.

### ***Will I be equipped to do Family Mediation?***

The course will adequately train you to deal with mediation in a family dispute context. The counselling element of the mediation training is closely connected with 'couple therapy' in which the psychotherapists are well experienced. However, in order to act as a Family Mediator in a publicly-funded litigation context, the mediator will require accreditation from a body approved by the UK College of Family Mediators, or its successor body. At the time of going to print, the School does not have that approval, although we are currently considering our position on this. Please enquire further with the School.

### ***Are SPCP Mediators entitled to Legal Aid Funding?***

Yes. If parties in litigation do not have sufficient means to pay for their legal representation, they may be eligible for Legal Aid. If in the course of that litigation they chose to mediate, they can obtain funding for the costs of a mediator, but provided only that the mediator is accredited by one of the 5 organisations listed in the Legal Services Commission manual – the SPCP is one of the 5 organisations listed.

### ***What other courses are available on the market and how do they compare with the School's course?***

There are probably around half-a-dozen mediation course providers in the UK. The market leader is clearly CEDR (Centre For Effective Dispute Resolution) a very professional and efficient organisation which, together with the ADR Group, led the market from the late eighties. Their courses are 5-day courses, generally much more expensive than the SPCP, and are very much more commercially-oriented. The ADR Group are a well-recognised mediation training organisation., who with others such as the British Academy of Experts, ADR Chambers, Mediation UK all provide mediation training courses of varying lengths and costs .

The SPCP's course has, in our view, the edge on all the other courses, as it uniquely includes training in the 'psychological' underpinning of conflict, which is so important when dealing with parties locked in combat. We demonstrate throughout the course how and why parties get themselves into dispute situations, and we analyse the strategies they adopt when trying to extricate themselves from those positions. Consequently, the Accreditation given by the School is swiftly becoming acknowledged as providing a unique quality of "psychotherapeutically trained" mediators. As stated before, the unanimous feedback from course participants is that the psychotherapeutic model of our training provides our graduates with an additional insight into the psychology of conflict, giving them an edge over mediators trained elsewhere. The skills acquired on our course are also proving invaluable in all areas of practice, in dealing with clients, employees, or witnesses, as well as in conflict avoidance.

## Other ADR Courses

### Refresher Courses

Refresher courses for Accredited Mediators and those still requiring accreditation, are one-day courses, usually consisting of two 3½ hour sessions, with a group of usually 4 to 6 participants.

### Special Courses and Requirements

We offer specially tailored courses for individual organisations/businesses to meet the specific needs of the participants.

**Recently, for example, we have offered the following special courses:**

- “in-house” courses at barristers chambers in London for both commercial and family mediation ;
- a course in Jersey for financiers;
- a course for shipping lawyers;
- a course for HR personnel
- mediation awareness seminars for a number of institutions including a London borough.

Special courses can be provided “in-house” or at the School.

**If you are interested in a special course for your organisation please**



## Scepticism about Mediation

Article by Paul Randolph, Course  
Director, reprinted from the *New  
Law Journal*

*Paul Randolph explains why lawyers need to change in this article which first appeared in the Comment section in New Law Journal, 21 April 2000. Although written long ago, the contents of the article – regrettably – still apply today. Scepticism about mediation is alive and well, living amongst lawyers throughout the UK.*

At the CEDR Civil Justice Audit on the 7th April 2000, both Lord Woolf and the Lord Chancellor expressed concern at the relatively slow take-up of mediation – identifying the legal profession were identified as the principal blockage. Other conferences for Personal Injury lawyers have repeatedly demonstrated the uphill struggle that the Lord Chancellor faces in persuading the legal profession to take-up mediation.

At the PIBA (Personal Injury Bar Association) Conference on 8th April 2000 and at the APIL (Association of Personal Injury Lawyers) Millennium Conference on the 13th–15th April 2000, I presented a seminar on “What PI Lawyers should know about Mediation and Why they need to know it”. Discussions following both presentations revealed the extent to which lawyers approached mediation with a NIMBY attitude: “I am sure mediation is a very good thing – but it is not really appropriate for the cases I deal with”.

This attitude was particularly surprising from practitioners in Personal Injury work. The sceptics felt that mediation was not ‘relevant’ in PI cases because “PI is all about money - claimants trying to get as much out of the defendants as possible and defendant insurers seeking to minimise their pay-out”.

### **In adopting this approach, they overlook a number of important factors:**

- PI is the only areas in the entire field of compensatory litigation where damages cannot put claimants back into their pre-accident position.
- Assessment of damages is not an

exact science: assessing non-pecuniary losses is intuitive; and the assessment of pecuniary losses is a highly speculative exercise involving a double element of crystal-ball gazing: what will the future hold for the claimant; and what would the future have held had the accident not occurred.

- The only certainty in litigation is that the outcome is uncertain – and never more so than in PI cases. The experts struggle with difficult issues of diagnosis, prognosis, and causation, and the parties are obliged to rely upon the inconsistencies of their experts and the vagaries of the judge.

These considerations possibly explain why some 98% of PI cases settle; and why 62% of lawyers in a recent MORI poll initiated by CEDR felt that, of all the CPR provisions, Part 36 had the most significant impact upon civil litigation. Early settlement is clearly one of the main aims of the Woolf reforms, and at the Civil Justice Audit, Lord Irvine indicated his firm intention to instigate a ‘campaign of awareness’ in relation to ADR amongst both the public and the legal profession.

Yet both barristers and solicitors need to overcome their instinctive reservations about mediation. “Why should I persuade my client – and my opponent – to try mediation? Both will regard it as a sign of weakness; and I will lose substantial fees by not preparing for trial. What can a mediator achieve that I as an experienced negotiator cannot.” This mind-set displays a large number of misconceptions:

- Lawyers may spend their time “settling cases”, but that does not make them ‘natural born mediators’; in fact the positional bargaining commonly used in negotiation - involving posturing, misrepresentation, bluff and counter-bluff – quickly leads to impasse, with both parties adopting extreme and

intractable positions. Mediation on the other hand, introduces an independent neutral third party as opposed to a 'biased champion', and frequently succeeds where negotiations have failed. This can produce creative settlements, rather than simply 'splitting the figures down the middle'.

- The culture of litigation is changing. It is no longer necessarily a sign of weakness to suggest mediation, but rather early settlement is a matter of commercial sense. And whether the legal profession likes it or not, Lord Woolf reaffirmed the judiciary's resolve to implement their powers to penalise parties in costs for failing to consider ADR.
- Protracted litigation causes untold stress, leading to the build-up of debts, the breakdown of marriages, and sometimes the worsening of symptoms in PI cases. The mediation process has a therapeutic effect, allowing the parties to give vent to their feelings far more effectively than any judge would allow when the parties "have their day in court".
- Mediation training for accreditation as a mediator enables lawyers to learn the skills and procedures used, in order to properly advise clients and represent them at mediations. It also benefits by developing skills for conflict resolution and avoidance generally.

All these arguments - and more - require constant repetition if the Lord Chancellor's campaign of awareness is to have effect. Only when the first case of a successful litigant deprived of costs for failing to consider mediation is widely reported, then and only then will mediation and ADR be taken seriously by lawyers. Campaigning organisations such as APIL and PIBA, as well as course providers such as CEDR and the School of Psychotherapy and Counselling Psychology, will continue to take a proactive lead in the education of lawyers; but in the meantime all barristers, solicitors, and even the judiciary will need to develop a greater understanding of the real benefits of mediation. The legal profession cannot afford to risk criticism that it is slow to adopt fundamental changes because members put their own interests above those of their clients.

By taking a more positive approach to mediation and ADR, we will be able to ensure that our professional standards are properly maintained. ADR is not the exclusive province of the legal profession – but we can apply our knowledge and experience of the law and the judicial system to provide a particular level of service. If we do not take mediation and ADR seriously, there is a danger that other suppliers will.

*Paul Randolph is a practising barrister at Lamb Building, The Chambers of Ami Feder, and is Course Leader/Lecturer on "Mediation Skills for ADR" at the School of Psychotherapy and Counselling Psychology at Regents College London.*

**Since the above article was written, the Courts have dealt with numerous cases where they have generally to take a firmer line and adopted a much more positive role in ensuring that parties to litigation consider ADR or mediation at an early – or at least some - stage in the proceedings**



## Cycle-logical mediation

What prevents parties from resolving their dispute reasonably, rationally and amicably, and how can psychology help?

By Paul Randolph

The following article by Paul Randolph is reproduced from the May 2008 issue of Solutions, the Law Society's magazine from their Dispute Resolution section

In India on 29 March 2008, Lord Phillips of Worth Matravers, Lord Chief Justice of England and Wales, said: "It is madness to incur the considerable expense of litigation -in England usually disproportionate to the amount at stake -without making a determined attempt to reach an amicable settlement. The idea that there is only one just result of every dispute, which only the court can deliver is, I believe, often illusory [...] Parties should be given strong encouragement to attempt mediation before resorting to litigation."

Not only is it madness to rush into litigation, but it is commercially indefensible for commercial entities to remain in dispute with each other for any length of time. Conflict deprives them of three essential elements: energy, time and productivity. To remain in conflict with another defies rational scrutiny; to enter into or prolong a commercial dispute resists economic analysis and can rarely be in the commercial or practical interests of either party. Even in the few cases when visibility of litigation may be important -for example, in the protection of intellectual property -it would still be more economical for the parties to collaborate in a solution.

So what is it that prevents parties from resolving their disputes reasonably, rationally and amicably? Why do we see so any hardnosed, business-orientated, profit-conscious individuals dragging themselves, their companies and their families endlessly through the courts?

The sad fact is that as a species, humans remain wholly incompetent at resolving disputes. So frequently competitive, we need not only to win, but also to see blood on the walls. Traditionally, there has been only one alternative to an amicable or negotiated settlement -war -crudely with armies on the battlefield or more sophisticatedly with cohorts of lawyers in court. However, neither is effective at truly resolving conflicts. Both end the dispute for the time being, usually leaving it to fester beneath the surface; but neither addresses the dispute's root causes. Protracted litigation can be as socially destructive as war -destroying businesses, wrecking marriages and damaging health.

Yet conflict is ever present; we cannot eliminate it. We can, however, work with it. It is important to realise that conflict may also be constructive. Conflict well managed can, in fact, prove valuable by creating a cycle of reconciliation, which brings with it greater understanding, changes for the better progress and advancement. Georg Wilhelm Friedrich Hegel, the 18th century German philosopher, identified the cycle of thesis, antithesis and synthesis -in which thesis represents the status quo; the antithesis is the challenge to that status quo, and the synthesis the new product resulting from the conflict.

Mediation addresses this cycle by actively facilitating reconciliation, with the mediator helping promote real and true resolution of the dispute by giving that cycle a small "nudge".

How does the mediator achieve this? Examine four psychological elements that drive conflict: emotions, self-esteem, values and the need to be heard.

In essence, all disputes have a common theme: one party demands something the other party is unwilling to give. The demand will be driven by an element

that is partly commercial, partly emotional. Similarly, the refusal to give in to the demand will be driven by both commercial and emotional factors. Few disputes are without significant emotional content. The allegation of "fault" is highly emotive and involves considerable injury to feelings. To allege a breach of contract or an act of negligence precipitates deep feelings of hurt and anger; if that fault is then denied, it creates greater irritation and upset, by "adding insult to injury".

Thus, the first principle with which the psychologically informed mediator must grapple is that, when parties are in conflict, they do not think or behave rationally but are governed by their emotions. Frequently, they may not even recognise their own underlying emotions. They may believe that their demand for "damages in compensation" is simply seeking proper redress or recompense, whereas in fact the demand for money is driven by anger, hurt or a desire to punish or humiliate.

A recent survey by solicitors Field Fisher Waterhouse LLP shows 47 per cent of company executives and in-house lawyers admit that a personal dislike of the other side led them into expensive litigation. We need to appreciate that if those in dispute are driven by emotions and not by reason, it is wholly futile for a mediator or the legal advisers to try and persuade them to change their positions through logic or rational legalistic argument. This may explain our frequent exasperation with clients: "They just don't seem to be able to see sense" or "I can't seem to get through to them that [...]".

Aristotle, the Greek philosopher, outlined the "master and slave" theory whereby, in a proper world, logic should be the master and emotion the slave. Unfortunately, in conflict, the reverse proves true. Passions overwhelm logic, and the more critical the outcome, the greater the emotion and the scarcer the logic. An anatomical explanation lies in the amygdala, a small almond-shaped

part of the brain that governs our "fight or flight" responses. In moments of high emotion, it takes control of the reasoning brain and prevents "paralysis through analysis". It is this "hijacking" of the rational mind that so frequently occurs in the high emotional state of a bitter dispute and creates an emotional barrier to settlement. If every conflict were approached from a purely rational, practical, pragmatic or commercial standpoint, very few disputes would continue.

### Self Esteem

What is it that precipitates such emotions when we are in conflict? The answer lies in our self esteem. We need to think well of ourselves and others to think well of us. We, therefore, expend considerable effort and energy in maintaining and protecting our self worth and seeking the approval of others.

There can be little more damaging to self esteem -whether individual or corporate self esteem -than to make, and deny, the types of allegation that populate pre-action correspondence and pleadings. These are accusations of failure -failure to act in a way that all other reasonable persons would act, or accusations of an outright betrayal of a previous agreement. Corporations can suffer injury to feelings as much as individuals, and corporate self esteem can be as powerful a driver as it is to an individual: "Who do they take us for?" "With what sort of a company do they think they are dealing?" Thus, the conduct of parties in dispute may be governed entirely by the desire for approval, to maintain their self esteem or protect it through the fear of manipulation or humiliation.

### Values

Values are the principles by which we all live. We create them to carry us through life in some ordered manner and they are linked to our self esteem. It is when others challenge or abuse these values that we find ourselves angered and in conflict. If, for example, one person's

values consist of being honest and punctual, their values will feel abused if the other side behaves dishonestly and is consistently unpunctual. Frequently, these value systems become rigid and prevent parties from reaching a settlement: "It's a matter of principle," say our clients, seeking to justify their entrenched positions; "Principles are a costly luxury" we lamely retort. However, when our clients stand firm "on principle", we need to understand and work with these values so as to secure that vital shift of attitude necessary for settlement.

### The Need to be Heard

One of the most powerful motivators of conflict is the sentiment of not being heard. "They are not listening, so I have no alternative but to litigate." The need to be heard, interrelated with self-esteem, results from parties feeling undervalued, ignored, misunderstood, or misrepresented. However, this is readily cured by investing a little time in "active listening" and demonstrating to clients and parties, that they have been not only heard (possibly for the first time in their lives) but also understood and accepted -even if not "agreed with".

In conclusion, with some knowledge of these human traits and the part they play in creating psychological blockages to settlement, we may be better able to facilitate conflict resolution. Without such understanding of human interactions, mediators will simply find themselves scratching their heads in bewilderment at the unfathomable antics of the parties before them.

**Paul Randolph is a barrister at Lamb Building**

The course leaders have extensive experience as trainers and lecturers and substantial knowledge of mediation.

### Course Director

**Paul Randolph**  
LLB; Barrister, New Court, Temple;  
CEDR Accredited Mediator

Over 35 years experience as a barrister in commercial and industrial disputes, in Contract, Tort, Property and Employment law. Specialised in Professional Negligence and Personal Injuries. Now a full time mediator and lecturer. Has mediated in a wide variety of commercial disputes, personal injury and professional negligence claims, employment (including cases for the DTI), property, and boundary disputes, and family financial conflicts. A member of the Bar Council ADR Committee. Has lectured extensively on Mediation to lawyers, Local Government and commercial organisations throughout the UK and in various States in both Western and Eastern Europe, as well as in China. Involved with several former 'Eastern Bloc' States following accession to the EU, in revising their legislation and legal infrastructures, as well as introducing, promoting and developing mediation. He is the co-author (with Freddie Strasser) of *Mediation: A Psychological Insight into Conflict Resolution* (Continuum 2004), which has a Foreword by Lord Slynn of Hadley, and was favourably reviewed in *The Times* by Sir Henry Brooke.

### Lecturers

**Monica Hanaway**  
BA, MA, UKCP Reg, Acc. Mediator

Monica is a part-time lecturer at the School of Psychotherapy and Counselling Psychology, London; Ruskin College, Oxford; Senior Educator and strategist for Oxfordshire County Council's integrated children and young people's services; founder of Face 2 Face Youth Counselling Service, Oxford; a psychotherapist and supervisor in private practice, stress management and

organisational management consultant and mediator specialising in workplace mediation and mediations involving young people.

**Jacky Lewis**  
MA, AdvDipExPsych, UKCP Reg, Acc.  
Mediator

Jacky is a member of part-time faculty at the School of Psychotherapy and Counselling Psychology. She is a professional skills development trainer working with lawyers and an external CPD training points provider for the Law Society. She has a private coaching and psychotherapy practice.

**Diana Mitchell**  
AdvDipExPsych, UKCP Reg

Diana is a part-time supervisor at the School of Psychotherapy and Counselling Psychology and at the New School of Psychotherapy. She works as a psychotherapist and supervisor in private practice. She also works for her local council as a mediator.

**Rachel Miller**  
BA (Hons), PGDip, AdvDipExPsych.,  
UKCP Reg

Rachel is a member of part-time faculty at the School of Psychotherapy and Counselling Psychology. She is an existential psychotherapist in private practice and in the NHS.

**Lucia Moja-Strasser**  
MA, AdvDipExPsych, UKCP Reg, Acc.  
Mediator

Lucia is a Senior Lecturer, an existential psychotherapist and supervisor. She is a member of the School's permanent faculty and Course Director of the Advanced Diploma in Existential Psychotherapy. She has also lectured at City University, University College London, as well as giving workshops and presentations at various conferences.

**Sanja Oakley**  
**Dip. CIM, MA, UKCP Reg.**

Sanja is a graduate of the New School of Psychotherapy and works as an existential psychotherapist in private practice. She is also a counsellor and trauma therapist for Transport for London.

**Alexander Smith**  
**BA, AdvDipExPsych, UKCP Reg**

Alex is an existential-phenomenological psychotherapist in private practice with a particular interest in the implications for psychotherapy of the philosophy of Wittgenstein and Gadamer. He is Honorary Secretary of the Society for Existential Analysis (SEA) and also devised and continues to organize the SEA Discussion Group. Formerly he was Secretary of the Executive Committee of the Experiential-Constructivist Section of the UKCP.

**Karen Weixel-Dixon**  
**MA, AdvDipExPsy, UKCP Reg, Acc. Mediator**

Karen is a practising psychotherapist and supervisor, with a special interest in the effects of temporality on human existence. She is a member of part-time faculty at the School of Psychotherapy and Counselling Psychology and a visiting lecturer at The New School of Psychotherapy based at Schiller University. She is co-author, with Dr. F. Strasser, of "Time and Purpose", a chap-

ter in the textbook *Existential Perspectives on Human Issues* (eds., E. van Deurzen, C. Arnold-Baker). She has been on the executive committee for the Society for Existential Analysis for some years and has delivered seminars and lectures to various professional organisations and training institutions. She is also an accredited Mediator in the private sector.

**Sarah Young**  
**BSc, MA, CPsychol, UKCP Reg**

Sarah works as a volunteer counsellor for Trinity Hospice and is a Chartered Counselling Psychologist and UKCP Registered Psychotherapist. She is the administrator of the Hans W. Cohn Bursary Fund and an existential psychotherapist in private practice.



## Some Comments by Recent Course Participants

*"This excellent course is suitable for lawyers as well as other professional and lay people who wish to become mediators. The course brings mediation into the real world, and delivers real results"*

**- Sir Henry Brooke (former Vice President, Court of Appeal)**

*"I learned great life skills.- makes me wonder what I was doing before!"*

**RS. Voluntary Sector worker**

*"Very instructive and helpful, practical course... not only interesting and useful, but very enjoyable too."*

**R.K.B. Solicitor**

*"My introduction to the psychology of mediation has had a profound effect upon the way I think, the way I advise clients and the conduct of my civil practice."*

**T.L. Barrister (QC)**

*"I found the course an excellent learning experience because its psychological approach to the subject afforded me a different insight into resolving commercial disputes."*

**S.P. Research Director CEDR**

*"Though sceptical at first, I soon became totally convinced that this psychotherapeutic approach to conflict resolution was the only true way to resolve disputes... a truly great course!"*

**A.B. Former Teacher**

*"It has provided a totally different insight into the process of dispute resolution... a substantially different style of approach and way of thinking about issues... This course is to be strongly recommended."*

**P.W. Solicitor**

*"Co-operative learning environment, non-intimidatory... very good emphasis on skills... a realistic approach to what can be achieved in a relatively short and yet intensive course."*

**J.L. Barrister**

*"A thoroughly enjoyable and stimulating course. It has changed my outlook not just on conflict but on life."*

**H.G. Personnel Consultant**

*"The 4 days were gruelling but worth every minute. The insights I have gained into the way people behave in conflict situations I feel will stand me in good stead in all areas of my life."*

**R.T. Housewife**

*"A fascinating course which I shall certainly recommend to others."*

**M.D. former Chancery Master**

*"A demanding but very enjoyable course... presented in a professional but very friendly manner... I have now discovered the magic of mediation and its powerful potential."*

**M.S. Solicitor**

*"The course is well structured with excellent tutors and valuable feedback – excellent in all respects"*

**LH Educational Consultant .**

*"Even if I don't go on to actually use the skills I was shown in mediation, I thoroughly enjoyed the experience and will recognise and use those skills in areas of my work"*

**R.D. HM Prison Service**

*"I thought I might be too young and lacking in worldly experience to benefit from a course like this. How wrong I was! I feel I have matured in these 4 days and learned true 'life-skill'."*

**J.G. Student**

*"The course has enabled me to view a litigious matter from an angle of "emotions", a view new to me... Once the emotional side of a dispute has been revealed by the "peeling away" process, settlement becomes a natural event."*

**ND. Solicitor**

*"This has been an excellent course – challenging, nerve-wracking but at all times great fun"*

**AB. HR personnel**

## Application and Course Fees

### How to apply

- Please complete the application form supplied with this prospectus.
- State your preferred the course date.
- Return the form with payment to:

#### ADR Applications

School of Psychotherapy and  
Counselling Psychology at  
Regent's College  
Inner Circle  
Regent's Park

### Terms and Conditions

- The fee for the course is payable on application.
- The course fee is inclusive of comprehensive documentation and refreshments.
- Course fees and deposits are non-refundable unless a booking is cancelled in writing not less than 10 working days before the course is due to commence. Any refund of fees will be subject to a cancellation charge of £175.
- We reserve the right to cancel the course if, in our opinion, there are insufficient enrolments.
- The School reserves the right to alter fees without notice.

### How to pay

- Fees can be paid by cheque, credit card (VISA or Mastercard) or debit card.
  - We do not accept cash.
  - Cheques should be made payable to:  
**Regent's College**  
All cheques should be in pounds sterling.
  - An amount of £15, to cover bank charges, should be added to the invoice total where payment is made by sterling cheques from a non-UK bank.
  - Payment should be sent to:  
**ADR Applications**  
School of Psychotherapy and  
Counselling Psychology at  
Regent's College  
Inner Circle  
Regent's Park  
London NW1 4NS
  - If you wish to pay by bank transfer our bank details are as follows:  
Name and address of bank:  
**Barclays Bank plc**  
Level 28  
1 Churchill Place  
Canary Wharf  
London  
E14 5HP
- Account Number: **90942847**  
Sort Code: **20-65-82**  
Account Name: **Regents College**
- Should you wish to pay by credit card, please note that a 3% surcharge will be added to the cost of tuition fees.
  - There is no surcharge for any other fees, or for payment by debit card.





## SCHOOL OF PSYCHOTHERAPY & COUNSELLING PSYCHOLOGY

### Mediation Prospectus

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The School is a member of  
and registering organisation with  
the United Kingdom Council  
for Psychotherapy.

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