
Mediation in Schools: Tapping the Potential

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Introduction

This article explores the developing role of mediation as a conflict resolution process in schools. It gives an accepted definition and clarifies the purposes of mediation, outlining the range of contexts in and beyond schools in which mediation is already offered as a formal intervention. The typical process of mediation itself is described. The article goes on to describe how mediation has been introduced in aspects of school life over the past 20 years. How mediation can and might be used to address school disaffection is outlined, along with some potential pitfalls. Finally, a vision is offered for the embedding of mediation in the practice of staff and in the experience of children in schools and in the wider community.

What do we mean by 'mediation'?

Many people associate the term 'mediation' with conflict (or dispute) resolution. However, the term is used in common parlance to describe a range of interventions, some formal, some less so, that can vary widely in the nature of the processes involved. Three distinctive formal mediation models have evolved in recent years; community mediation, victim-offender reconciliation programmes and victim-offender mediation. Community mediation has its roots in civil dispute resolution; it is intended to divert disputes from going to litigation. In criminal cases (victim-offender contexts) the objective is to secure a written restitution agreement.

There now exists in many countries a considerable pool of professional practice in the field of mediation. This practice generally has clearly defined ethics, standards and process frameworks. For the purposes of this article, and in relation to mediation processes in educational settings, the following definition is offered:

Mediation is a process for handling disputes that assists the people involved to reach an agreement, working with an impartial mediator. Participation is voluntary and the parties in dispute, rather than the mediator, decide the terms of any settlement. Adapted from the Scottish Mediation Network's definition: www.scottishmediation.org.uk

Mediation then is a way of resolving disputes or conflict by helping those involved to come to an agreement or, at least to a better understanding of each other. Parties in conflict or dispute need to agree to take part and no aspect of any agreed outcome is predetermined. The parties are treated as equals and they decide the terms of the agreement, not the mediator. The mediator is both impartial and, within ethical boundaries, 'morally neutral'; that is, does not speak or act as if one person is 'in the right' or 'in the wrong'.

The role of the mediator is to use specific interpersonal skills to create opportunities for the disputants (often referred to as the 'parties') to:

- Take greater control of the existing conflict and any future resolution
- Communicate constructively about the conflict
- Better understand the other party's perspective of the conflict
- Generate an agreement that will help resolve the conflict.

The primary focus for the mediation process is on reaching an agreement about future actions or behaviours and/or on improving mutual understanding. Relationships may be repaired or reconciled, but this is not essential for a successful outcome for the participants. Participants may agree to disagree on some issues. Apologies may be made by one or more participants, but are not a necessary part of the process (c.f. Restorative Justice, below).

Where is mediation currently used?

Mediation is currently offered in a variety of dispute and conflict contexts. These include commercial, legal, diplomatic, workplace, community, divorce or other family matters as well as in schools and other education settings.

Mediation has a proven track record in these contexts. Successful outcomes are reported, typically, in 70-85% of face-to-face mediations, where the criterion for success is defined as the participants' satisfaction with the agreement reached at the time, and in the longer term.

Mediation has many potential applications in a school context. However, its purpose always remains the same – to help the participants resolve a dispute or

conflict. For example, at the low tariff end of the conflict scale, mediation may be offered to two children who are unable to resolve a minor fallout or disagreement in the playground. In this context children themselves may be trained as the mediators (Peer Mediation). At the high tariff end of the conflict scale professional mediators may be brought in, for instance, to help resolve an entrenched dispute between parents and the school or Education Service about provision for a child who needs significant additional support in school (*Additional Support Needs/Special Educational Needs* dispute resolution). In both these contexts the applied principles of mediation will be the same. However the skill levels required of the facilitators and the time required for the processes will be very different.

What is the process of mediation and why is it effective?

The standard process for community mediation was established in the early seventies by the Institute for Mediation and Conflict Resolution (IMCR) in Manhattan, US (McGillis, 1997). This follows a step-based framework:

1. Mediator establishes ground rules
2. Mediator makes a notification of confidentiality
3. Mediator describes consequences if mediation fails
4. Parties give their versions of dispute without interruption
5. Parties participate in general discussion
6. Mediator encourages parties to make an agreement about their future conduct to each other. (adapted from McCold, 1996)

In practice, most mediation in school settings is based on a well-established framework that has developed out of similar theory and practice. Table 1 summarises the typical stages of mediation and their purposes. For simplicity this process considers a conflict between two people – person A and person B.

In many mediation contexts two mediators, working as co-facilitators, manage the process – an arrangement that provides a number of advantages over solo mediation. Mediation has a high success rate for a number of reasons.

First, those who come to mediation agree to meet because of mutually desired needs for resolution of the

Table 1: Summary of the Mediation Process

Stage	Purpose
Referral	Those involved in the conflict get access to the Mediation service. This may be via self-referral or through recommendation by a third party.
Meeting person A	The mediator meets with person A to: <ul style="list-style-type: none"> • Explain the mediation process and its purpose • Hear A's perception of the conflict • Explore the appropriateness of offering Mediation • Ensure any participation is voluntary • Help person A prepare for the Mediation meeting.
Meeting person B	The mediator meets with person B and covers the same issues as were covered with person A.
Bringing A and B together for a Mediation meeting	The mediator will: <ul style="list-style-type: none"> • Explain the purpose and structure of the meeting • Ensure both participants have come in good faith and are willing to work for an agreement • Ensure that key ground rules for the meeting are understood and accepted • Allow each person uninterrupted time in order for them to explain their perspective on the conflict • Work with the participants to identify interests, needs and any common ground • Encourage and support the participants in working toward a mutually acceptable agreement • Offer to record any agreement that has been reached.

conflict. This mutual desire may not always be evident or uppermost at the start of the intervention. One of the skills of the mediator is in working with parties to help them articulate their underlying interests rather than their initial positions. In entrenched and difficult conflicts the success of any mediation often depends on the quality of the preparation that has been done with the participants in advance of their meeting together. Bringing poorly prepared participants together may simply exacerbate the conflict rather than help resolve it. Complex or high tariff cases may require several preparation meetings with the individual parties before bringing them face-to-face.

Second, the process of mediation encourages ownership of the conflict and its resolution by the parties. When parties do reach agreement then the likelihood of them being satisfied with this, and subsequently sticking to the terms of the agreement, are significantly greater than if the 'solution' had been imposed by one on the other or by a third party.

Thirdly, throughout the whole mediation process the mediator will model effective respectful communication with and between the parties. This includes agreeing and asserting ground rules with the parties at the start of any face-to-face meeting. This

creates a climate in which people can be honest about their own feelings and thoughts, whilst being encouraged being able to hear those of others. This exchange of perspectives often marks the 'tipping point' from dispute into resolution and is notably missing from other types of conflict resolution interventions.

Mediation between more than two participants in a conflict is possible, including between groups. This generally needs more careful preparation as the complex dynamics within groups place greater demands on the skills of the mediators in managing the process.

Where the participants express a desire to work for an agreement but do not wish to meet face-to-face then an alternative process – shuttle mediation – may be offered. In this the mediator acts, with permission, as the 'carrier' of information and any proposed terms of agreement that have been given to them by each participant, to be conveyed to the other. Clearly this can be a more time consuming process than face-to-face mediation and tends to have a lower success rate. In practice shuttle mediation is rare in school contexts as the participants generally recognise the need to meet in order to establish future working relationships.

Where does Mediation sit with Restorative Justice and Restorative Practice?

Restorative Justice can be defined as:

Restorative Justice is primarily motivated by the need to address and repair the harm done by one person to another. It is voluntary and does not take place unless the person who has caused the harm accepts responsibility for their actions. It allows the person harmed to explain the impact of the harm on them and to be involved directly in the outcome. It allows the person responsible for the harm to accept responsibility and to understand the consequences of their behaviour for others and for themselves and to consider what they could do to make amends for the harm done.

Mediation and Restorative Justice have evolved into distinctive processes in some countries, including in the UK. However, most key understandings of Restorative Justice internationally clearly borrow from mediation theory and practice. (McCold and Wachtel, 2003; Walgrave, 2003). Indeed Howard Zehr's (Zehr 1990, 2002) influential theory developed out of mediation practice, specifically Victim-Offender Reconciliation Programmes, focusing on the interaction between victim and offender.

As most formal Restorative Justice processes work towards or begin with the acceptance of responsibility for an apparent incidence of 'wrong doing', these processes have a different starting point and purpose from the 'morally neutral' process of mediation described in this article.

Note: For the purposes of this article the process often described as 'victim-offender mediation' is considered to be a form of Restorative Justice rather than Mediation, as defined herein. A detailed exploration of how Restorative Justice processes might address school disaffection is therefore beyond the scope of this article.

Restorative Practice, on the other hand, has been defined as:

... a way of working with children that acknowledges the central importance of effective relationships in schools and promotes the school's role in developing these. It places particular emphasis on developing respect, empathy, social responsibility and self-regulation. There is a range of proactive and responsive Restorative Approaches which schools can

learn to use. Proactive approaches build emotional intelligence and resilience. Responsive Interventions focus on resolving conflict and addressing wrongdoing and harm.

From this perspective mediation, and in particular peer mediation, can be seen as one of a range of responsive interventions (including Restorative Justice interventions) accommodated under the broad umbrella of Restorative Practice (Kane *et al*, 2007).

What is the role of mediation in addressing school disaffection?

The factors contributing to school disaffection are manifold. However, student disaffection often manifests itself through conflicting interpersonal behaviours. Since mediation is primarily about resolving interpersonal conflicts, its potential for addressing disaffection is therefore significant.

Mediation can help individuals to meet the needs of others by allowing them to be heard and understood and by helping them to arrive at mutually acceptable solutions to conflict. It can also model effective conflict resolution skills that may hold longer-term benefits for those involved. At best mediation may help schools, staff, parents and students to change their approaches in order to better meet the needs of some students. However, as the mediation process operates from a 'morally neutral' perspective – one that is principally solution-oriented rather than problem-oriented, it is not generally perceived as a vehicle for addressing the wider institutional, political or cultural factors that can create disaffection amongst students. At worst therefore it may be used inappropriately to address conflicts that are symptomatic of deeper institutional, political or cultural factors, and which are not necessarily resolvable at an interpersonal level.

Mediation, as described in this article, is designed to help those who have conflicting needs, interests or even values to work towards better mutual understanding and agreed ways forward. Specifically, mediation offers a way forward in contexts such as:

- Student-student conflict, which can lead to feelings of isolation and vulnerability.
- Staff-student conflict, where conflict arises from misunderstanding, unclear communication or a lack of understanding the other's perspective.

■ Parent-school conflict (for similar reasons).

Schools and staff that operate from a child deficit model may find quite challenging the opportunities that mediation provides for mutual respect, shared understanding and empathy, compromise and solution-oriented collaboration. However mediation is, in my opinion, one of those rare interpersonal experiences that allow us to re-evaluate our thinking and approaches to others. As such it offers a real opportunity to address constructively the clashes in attitudes and values that can contribute to a child's disaffecting experience of school. The following section explores some of the contexts in which mediation is already being used to address conflict and disaffection.

In what ways is mediation currently being used in schools?

There are currently three contexts in which mediation is being used in schools.

1. Independent mediation services addressing school-related conflict and disputes
2. Peer (student) Mediation
3. School and Education staff using mediation and mediation skills

1. *Independent mediation services addressing school-related conflict and disputes.* This context can be subdivided into two specific service areas.

- I. Community Mediation services (or their equivalent) exist to help resolve neighbourhood disputes – typically over territory, noise and other behaviour-related disputes. Such services (e.g. sacro in Scotland) can provide mediation where at least part of the locus has involved a school. Such cases often involved inter-family disputes that have 'spilled over' into the school – manifested in the behaviours of their children. Such services have proved a valuable, independent resource that can engage with parents constructively in resolving issues that school staff themselves may feel powerless to address. It is also possible for such service to mediate between adults in the community and the school itself.
- II. In some countries independent mediation services exist to intervene where parents are in dispute with the authority regarding

educational provision for their child with identified additional support needs. (For example: Provision in The Education (Additional Support for Learning) (Scotland) Act 2004, and the Center for Appropriate Dispute Resolution in Special Education in the USA.) Such provision can help address the needs of children and parents more constructively and avoids litigation through tribunal or court procedures.

2. Peer (Student) Mediation

Peer mediation in schools mirrors the mediation processes described earlier, except that the mediators themselves are drawn from their peer group of students. Many countries (e.g. USA, Australia, New Zealand, UK) have examples of schools with peer mediation programmes established over the past 20 years or so. These generally involve student mediators aged 10-17. Peer mediators offer a 'service' to their classmates, with mediators always working in pairs. 'Cases' can come via self-referral or staff recommendation.

The suggestion that children can be trained to operate as mediators without the need for direct adult intervention in the conflict often generates significant and legitimate anxieties amongst staff and parents. Common questions raised (and some brief answers) include:

Implementing peer mediation is a big undertaking for any school. What difference will having peer mediators make?

Reduced levels of inter-pupil conflict. Reduced demands on staff to address low-level conflict and disputes.

Can children as young as 10 years old really learn to be effective mediators?

Yes – with careful selection and appropriate training and support.

Should peer mediators be involved in addressing incidents of bullying behaviour?

Generally no – although this depends on how we define 'bullying'.

Are we not asking too much of peer mediators to intervene in other children's conflicts?

Some students do this anyway, without adult guidance or support. Mediation gives them an effective framework for intervention.

How can we ensure that peer mediators do not get involved in situations that really need adult intervention?

Effective training and support for mediators can help ensure this.

Some parents may see the intervention of peer mediators as inadequate or as an abdication of the school's responsibilities. Will they not expect adult intervention and sanctions where children have behaved inappropriately?

Peer Mediation is most effective where it reflects a broader restorative climate in the school. There needs to be effective communication, engagement and involvement with parents on these issues.

In many schools peer mediation has been introduced as part of a wider programme to build the emotional intelligence and conflict resolution skills of all the school's children.

3. School and Education staff using mediation skills

Examples exist of education staff, including teachers, training either as mediators or, more commonly, learning basic mediation skills. The ability to intervene promptly and effectively in student-student, student-staff and parent-school disputes is increasingly recognised as a valid and valuable part of educators' professional roles.

Many of the staff who have received basic training in mediation skills and processes will not necessarily be applying these within the same rigorous framework employed the aforementioned mediation services and, whilst there are undoubted benefits to be had from a wider use of mediation skills amongst education staff, this development also carries at least two potential risks.

First, education staff may attempt to offer mediation in contexts where the person casting themselves in the role of mediator is not perceived by the parties as genuinely impartial. For instance a head teacher, aiming to mediate between a child and the child's teacher (where either or both has expressed dissatisfaction with some aspect of the other's behaviour), may be *perceived* as favouring their own member of staff – a perception that will almost certainly diminish the likelihood of achieving a mutually agreed solution.

Second, negative experiences of informal, 'in house' mediation may dissuade the parties from seeking

further mediation from an independent service, which might have helped achieve a more positive outcome.

There are also contexts where staff may be tempted to offer mediation as a way of resolving apparently intractable difficulties but where the process may be ill advised. Perhaps the most noted of these contexts is bullying. It has been cogently argued that, far from helping to resolve bullying situations, the use of the mediation process described here risks compounding the harm already done.

First, bullying is a form of victimization; it should be considered no more a 'conflict' than child abuse or domestic violence. As a result, the messages that mediation likely sends to both parties are inappropriate ('You're both partly right and partly wrong.' 'We need to work out the conflict between you.'). The appropriate message to the child who bullies should be, 'Your behavior is inappropriate and won't be tolerated.' The message to children who are victimized should be, 'No one deserves to be bullied and we're going to do everything we can to stop it.'

Not only may mediation send inappropriate messages, but it also may further victimize a child who has been bullied. Because of the imbalance of power that exists between bullies and their victims, facing one's tormenter in an attempt at mediation may be extremely distressing. (Fleming and Towey 2004)

If the potential benefits of mediation are to be made more widely available then there is much to be said for all those involved in education – staff, children and parents – having a sound understanding of mediation and what it has to offer. Staff who have been trained in mediation skills and processes report that this can significantly enhance their ability to fulfil their roles. Put simply, if 10-year-olds and their peers can benefit from learning the skills of mediation, surely there can be no real argument for excluding their teachers and support staff from the same potential benefits.

What is the potential for the further development of mediation in schools?

There exist a complex range of conflicts in school communities which might benefit from mediation, were there sufficient numbers of appropriately trained mediators. These contexts are summarised in table 2, along with an indication of who might be best placed to offer the mediation.

Table 2: The range of contexts for mediation in schools

Context for Conflict	Who could mediate?
Child – Child	Peer mediators or school staff
Child – Staff	School staff or child and staff co-mediators
Staff – Staff	Education Service staff or independent mediators
Parent – School	Independent mediators (or perhaps Education Service staff)
Neighbour – School	Independent mediators (e.g. a local Community Mediation Service)

In some countries mediation currently takes place in all of these contexts but in most countries the range of practice and the availability of mediators is patchy. The mediation process has proven again and again in all sorts of contexts, from fallouts amongst children through to international disputes, to offer an effective framework for improved communication and shared resolution of problems. There is clear evidence that training in mediation can be an effective vehicle for children and adults learning conflict resolution skills, for building emotional literacy and for developing self-regulation. (Maxwell, 2007; Jones and Kmita, 2000). Education communities that fail to embrace this powerful process in all its possible contexts risk diminishing their opportunities to nurture constructive communication and inclusiveness.

Note

Some sections of this article are adapted from texts that first appeared in Hendry, R. (2009). *Building and Restoring Respectful Relationships in Schools: A Guide to Restorative Practice* Routledge, London

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