

## Assessment Information

### Module 1 - Mediation and Conflict Resolution

#### **Assignment Title**

You are provided with a narrative and the CDP profiles of the following two people: Jennifer Jobs and Alan Gent. (You already have your own CDP Profile.)

Question 1. In what way would these CDP profiles, together with what you know of the parties, influence your preparation for and management of the conflict between them? Refer to the role and competencies of a mediator in your answer. (50 Marks)

Question 2. Choose one of the parties in the role play provided. How would you as a mediator explain to the party you have chosen, what the benefits of mediation might be to their situation? Refer to the principles of mediation in your answer as well as different models and styles of mediation. (50 Marks)

You are expected to refer in your answer to appropriate sources of information and/or academic commentary on conflict and mediation.

The following learning outcomes are being assessed in the assignment and each element is to be addressed:

- (i) Recognise and explain how the position that parties take in a mediation is driven by their unconscious and/or unstated underlying interests;
- (ii) Demonstrate knowledge of the principles governing mediation;
- (iii) Explain the impact the principles of mediation and the mediation process can have in resolving conflict;
- (iv) Describe the different models and styles of mediation;
- (v) Evaluate his or her own approach to conflict including their own triggers and conflict behaviours and the skills that are utilised in managing interpersonal conflict;
- (vi) Have detailed knowledge of the impact of interpersonal conflict on the mediation process.

### **Narrative – Party 1 to Mediation**

#### Jennifer

Jennifer is employed as a dental nurse who works in a very busy private clinic. She is with the company now for 6 years and runs the clinic with her colleague Alan. They report in to the MD of the clinic but self-manage their own work as peers.

Alan joined the clinic one year ago, and ever since there have been tensions between them. Jennifer worked very well with her previous colleague who she looked up to and admired. They always helped each other out and would 'go the extra mile' for each other whenever they could. They also 'watched each other's backs' given the level of patients coming through the clinic and the growing potential of the clinic to be sued or challenged about their treatment of patients.

However, Alan has never been a team player in this way. He started in the clinic with different terms from those that Jennifer works under. He was able to negotiate more flexible hours from the beginning of his employment than she had and appears to have the ear of the director when it comes to needing time off (which he often does for family events and problems). One of Alan's children suffers from a

medical condition and he often needs to get time off to care for her. It is not a serious condition, but it does need management. Jennifer doesn't have children, but does have other family issues that she does not bring into the workplace. Yet, she has to constantly listen to his dramas and be flexible to cover him.

Despite always taking the later shift and covering for him on his days off, he never ever appears to be grateful or say thanks. According to Jennifer, Alan continually "takes, takes, takes". While Alan does not report to Jennifer, she has trained him in on the job and he regularly has to check in with her on procedures etc., which again he seems to take for granted. The thing that really upsets Jennifer is that Alan drops tools at the end of his shift and walks out on her, even if there are files to be prepared for the following day. It then falls on Jennifer to stay late and finish the work.

Jennifer gets on with all the other people who work in the clinic. She is a hard worker, but feels that Alan is not as committed to his work as Jennifer is, and his first priority is to look out for himself. She believes that Alan does not place the same importance on the success of the unit as Jennifer does and as far as Jennifer is concerned, he cannot be trusted.

Jennifer decided recently to do her own thing and not go out of her way anymore to help Alan. She stopped going for lunch with him and has decided to talk to him only when she is obliged to. Last week Jennifer decided to book her Christmas holidays. Two days were overlapping with Alan's. She talked to her boss about it. Her boss said to work it out between them: that one would have to cover each of the two days. She told Alan she would cover the Thursday if he could do the Friday. Alan said he wasn't changing his plans. He went to talk to the boss who told him he was agreeable to getting somebody in to cover the Friday. When Alan told Jennifer, she asked him whether the Thursday would also be covered?

Alan said he didn't ask about the Thursday and Jennifer became furious. She shouted at Alan, telling him she couldn't believe he was so selfish and that all he cared about was himself. She said he was going to leave the company because of him, that he was impossible to work with and everybody agreed with her. She said she wasn't going to help him ever again and that he was to only talk to her when necessary about a patient.

Jennifer now feels there's no point in talking to Alan or trying to resolve the issues between them. As far as Jennifer is concerned, one of them will have to leave the clinic. She knows that Alan has made a complaint about her to their boss. She is worried about this because she now feels that her boss has also let her down and should have dealt with this before now.

Yesterday Jennifer's boss asked her to consider mediation. She has no idea what Alan could possibly have to complain about. She has done everything to help him since he started and he has never appreciated it. While she does not see what good it could do, she has agreed to talk to a mediator.

## **Narrative – Party 2 to Mediation**

### Alan

Alan Gent joined the dental clinic two years ago. He worked in a busy hospital in London prior to this and decided to take this job because he felt it would not be as demanding on his home life. When he attended for interview, the Managing Director reassured him that he could be flexible in his hours and that the clinic management supported the work/home life balance that Alan needed to have, especially in view of his daughter's medical condition. He also was clear that Alan reported to him and not to Jennifer and that Alan and Jennifer were both expected to self-manage the unit, reporting issues to the Managing Director only when necessary.

From the beginning in the post however, Alan felt that Jennifer didn't like him. He finds her very abrupt in how she deals with people generally, and particularly with him. She is very quick off the mark and makes snide remarks at times when he has to leave work at the allotted time. Alan believes that Jennifer second guesses his decisions about his working hours, and he feels that she is always scrutinising everything he does. He often feels like saying to her 'you're not my boss', but doesn't.

Alan feels they got off to a bad start because he had negotiated special conditions. He feels that Jennifer was not in favour of these conditions and since then she just will not let it go. She keeps implying that she has to stay late in the evenings because patients are waiting. Alan believes she likes to play the martyr and doesn't manage her time well. She has no regard for work/life balance and likes to be in control of everything. She is forever checking up on him and scrutinising his work. He feels like telling her that she is not his boss but does not wish to create more hassle between them.

While Alan finds it very difficult to take Jennifer's approach to the job, he tries to get on with her. He is confident in his ability to do his job and sometimes he stands up to Jennifer, but never seems to get anywhere with her. Alan finds Jennifer loses her temper when she is challenged or under pressure. She exaggerates the seriousness of a lot of relatively minor issues in Alan's opinion.

Alan's way to deal with situations like that is to avoid letting her know how he feels about things and to go along with her where possible. She is always trying to get him to spend more time on preparing the reports and wants to talk through every detail endlessly. Alan finds this tedious, unnecessary and sees it as Jennifer's way of trying to control him and assert herself as the senior nurse.

Lately however Alan has found that Jennifer has become very distant and feels she just doesn't want to be in his company. She approached him last week saying she was working out the Christmas roster and there two days overlapping between them, even though Alan had previously booked them off. The Managing Director told her that Alan and Jennifer would have to 'work it out between them'. Alan was furious because he felt Jennifer had done this on purpose and was just trying to upset his plans. He was not prepared to accept this. He told the Managing Director that he had to have the time: it was booked in advance and somebody was going to have to be brought in as cover. The Managing Director agreed that if Jennifer would work the Thursday, cover could be arranged for the Friday. However, when he told this to Jennifer she started shouting at him. She completely lost her temper and said she was leaving because of him, that she "couldn't work with him" and "everybody thought the same".

After this outburst, Alan went to his Managing Director and said he wanted to make a complaint of bullying against Jennifer. He decided he was taking a stand this time and is not backing down anymore. Alan feels he has done nothing to deserve Jennifer's treatment of him.

His Managing Director has asked him to consider mediation. He doesn't believe it is possible to sort this out but has agreed to meet the mediator to discuss how the process of mediation works.

## Sample Marking Criteria

Marking Criteria	Demonstrate understanding of human reaction to conflict, and the impact of underlying interests on same.	Demonstrate knowledge of the principles of mediation and how the process could benefit a party to the conflict presented.	Range and depth of reading and research	Academic structure and Presentation of paper
Weighting	35	35	20	10
70 - 100%	Demonstrates excellence in understanding human reaction to conflict, and the impact of underlying interests on same. Evidence of excellent, appropriate self-reflection.	Evidence of excellent ability to communicate the principles of mediation in an applied way, how the process of mediation can benefit the conflict and the party.	Evidence of detailed independent research and independent thinking	Advanced academic piece of work, written and structured in a clear and concise manner and referenced correctly
60 - 69%	Strong performance demonstrating a very good understanding of human reaction to conflict, and the impact of underlying interests on same. Evidence of very good, appropriate self-reflection.	Evidence of very good ability to communicate the principles of mediation in an applied way and how the process of mediation can benefit the conflict and the party.	Good engagement with primary sources. Some original insights.	Academic piece of work, written and structured in a clear and concise manner and referenced correctly
40 - 59%	Adequate performance demonstrating some understanding of human reaction to conflict, and the impact of underlying interests on same. Limited self-reflection.	Evidence of some ability to communicate the benefits of the process and principles of mediation, poorly directed at the scenario.	Demonstrates familiarity with the basic reading	Reasonably well written piece of work with some structure and referenced correctly
>39%	Poor performance demonstrating little or no understanding of human reaction to conflict, and the impact of underlying interests on same. Devoid of relevant self-reflection.	Little if any evidence of ability to communicate the benefits of the process and principles of mediation, poorly or inappropriately directed at the scenario.	Poor knowledge or only slight awareness of basic reading	Poorly written piece (poor spelling and grammar) with little structure and poor referencing

## **Module 2 - Mediation Ethics and Regulatory Framework**

### **Assignment Title**

President Michael D. Higgins signed the Mediation Act 2017 into law on October 2nd 2017.

Critically analyse the effect this legislation has (or is likely to have) on at least two of the principles of mediation. In your answer, consider how a Mediators Institute of Ireland registered mediator is currently regulated under the Code of Ethics of that institute.

### **Learning Outcomes Assessed**

- (i) Identify the differences between the various forms of dispute resolution available to disputing parties and demonstrate an ability to exercise appropriate judgment when mediation may or may not be more suitable.
- (ii) Explain how legislative changes and regulatory choices may affect both the mediation landscape in Ireland and an individual mediator in their daily work;
- (iii) Demonstrate how legislation can impact on the principles of voluntariness and confidentiality in mediation;
- (iv) Explain the protections, or lack thereof, that exist for a mediator in the legal environment;
- (v) Communicate the impact of Agreements to Mediate and Mediated Agreements in the context of contract law;
- (vi) Demonstrate familiarity with and evaluate the various professional codes of ethics present in mediation in Ireland;
- (vii) Explain the process, ethics and principles of mediation to potential parties in a mediation.

## Sample Marking Criteria

Marking Criteria	Knowledge of topic and use of relevant material	Critical analysis and engagement with the question	Academic structure and Presentation of paper
Weighting	50	30	20
70 - 100%	Excellent performance demonstrating excellent knowledge of the key issues and addressing these in depth.	Evidence of critical analysis of legislation and ethics in mediation well applied to the question posed	Advanced academic piece of work, written and structured in a clear and concise manner and referenced correctly
60 - 69%	Good solid understanding of the relevant regulatory considerations. Key issues identified.	Very good focus on the question asked. Good critical analysis.	Academic piece of work, written and structured in a clear and concise manner and referenced correctly
40 - 59%	Evidence of some understanding of the issues posed in the question	Reproduction of material without significant critical judgment. Competent discussion.	Reasonably well written piece of work with some structure and referenced correctly
>39%	Little or no understanding of the issues posed in the question demonstrated	Addresses question asked in a minimal way or not at all. Irrelevant material predominates.	Poorly written piece with little structure and poor referencing

## Module 3 – Mediation in Practice

### Reflective Portfolio

Participants will be assessed on their ability to reflect on and evaluate their mediation training experience in the form of the compilation of a 'Professional Development Portfolio'.

At a minimum your Reflective Journal provides:

- A demonstration of knowledge and understanding you have developed in the field of mediation, including showing the impact of interpersonal conflict on same (500-600 words);
- Drawing on the work you did in preparation for the Mediation Ethics and Regulatory Framework module, and the work you did for the assessment, reflect on the issues that arose for you in that module and the impact it would have on your practice as a mediator (500-600 words);
- Drawing on the preparatory work and assessment that you did for the practical role-play assessment completed in module 3 "Mediation in Practice", reflect and evaluate your performance as a mediator (i.e. tools and techniques used to create an appropriate environment, and strategies you used to deal with any issues that arose) making reference to areas that work well for you in terms of engaging mediating parties, and areas that require further academic and professional development on your behalf (800-1000 words).

### Learning Outcomes Assessed

- (i) Apply the appropriate processes and procedures of the mediation framework to best fulfil the mediator's role in accordance with best practice;
- (ii) Recognise and manage issues that may present during a mediation such as destructive behaviour, anger and provocation;
- (iii) Recognise and manage effectively the causes of resistance and the dynamic leading to impasse during the mediation process;
- (iv) Evaluate his or her own performance as a mediator in a role-play in relation to prescribed core competencies of a mediator;
- (v) Evaluate the importance of his or her own behaviour as a mediator in the various phases of mediation, and the impact that this can have on the parties involved.

## **Role Play Self-Assessment Form**

The Mediators' Institute of Ireland

The Professional Association for Mediators



### Roleplay Self-Assessment Form

This form to be completed by the candidate being assessed following their role-play and review of the video of their assessed role-play without input from other(s).

#### **Section I: Background Information**

Name of Mediator (*Candidate*): \_\_\_\_\_

Phone: \_\_\_\_\_ E Mail: \_\_\_\_\_

Name of MII Assessor: \_\_\_\_\_

#### **Section II: Roleplay Information**

Details (*date of roleplay assessment/duration/type of scenario*):

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## Section III: Assessment of Mediator Skills

### *Scale To Measure - Level Of Participation*

Please use the following rating scale and determine an overall rating for each category applicable to your roleplay. Below the headings are listed several factors to consider in making a rating - please circle one. Because the process is unfolding you will only be able to demonstrate some of the qualities and skills set out below. It is the appropriate use of these skills for the stage of the process & the relationship that has been reached that is assessed.

**5 – Very Good Standard:** *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using all of the relevant interventions in each assessment area.*

**4 – Good Standard:** *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using most of the relevant interventions identified in each assessment area.*

**3 – Satisfactory:** *The candidate has displayed the skills and knowledge which indicate they have the ability to conduct a mediation and where they demonstrated a capability of using the relevant interventions identified in each assessment area.*

**2 - Needs improvement:** *The candidate has not displayed the skills and knowledge which indicate they have the ability to conduct a mediation as they have failed to demonstrate appropriate use of the relevant interventions.*

**1 – Unacceptable:** *The candidate has failed to display most or all of the skills and knowledge which indicate they have the ability to conduct a mediation. The candidate has used few if any of the appropriate interventions in each assessment area.*

Please circle one.

Under the “Comments” section, discuss specifically those areas you view as needing improvement and those you feel you completed successfully.

## Roleplay Self-Assessment Form

Please type or print clearly – Use additional paper if needed.

### Managing the Relationship in Mediation

Establishes and maintains a respectful trusting and balanced relationship with the participants by:

- (i) Creating rapport
  - (ii) Respecting the participants
  - (iii) Encouraging mutual respect among all participants
  - (iv) Being objective and impartial in style
  - (v) Modelling ‘*advanced communication skills*’ with co-mediator
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- Demonstrates key mediator skills and qualities (*e.g., listening, questioning, assertiveness, observation, tolerance, openness, honesty etc.*)
  - Encourages the participants' self determination
  - Facilitates a collaborative relationship between the participants
  - Enables the participants hear each other's stories
  - Enables the participants develop a relationship with the mediator(s) and if feasible, with each other in the room, whereby they express feelings and become “*real*” to each other
  - Encourages use of preferred names
  - Recognises and acknowledges conciliatory gestures and concessions (*‘gifts’*)
  - Facilitates expressions of regret and apology between the participants
  - Enables the participants explore their future relationship, if relevant

Overall Rating (*please circle one*):      1 2 3 4 5

Comments: \_\_\_\_\_

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## Managing the Process of Mediation

- Deals effectively with initial resistance to mediation
- Ensures participants have a clear understanding of the structure of mediation, process and roles
- Where applicable, assists the participants in negotiating the process, ground rules and agenda for mediation sessions
- Manages the introduction process in a respectful, balanced and clear fashion
- Works effectively with co-mediator in controlling the stages of the process
- Attends and explores participants' concerns and empathises with feelings
- Enables the development of each participant's story
- Encourages participants to openly converse
- Manages the separation of issues into an agenda
- Assists participants in understanding the consequences of their plans
- Assists participants with option building, broadening the number or scope of options
- Empowers the participants to explore and find their own ways forward
- Manages the creative discussion of possible ways forward
- Ensures participants have a clear understanding of expectations in relation to preparation and delivery of the joint meeting
- Assists participants in exploring and reality-testing alternatives to mediation
- Manages impasse, resistance, or difficult behaviour
- Demonstrates appropriate use of joint meetings and Caucus
- Works with power imbalance or control issues
- Handles intense emotions
- Displays flexibility and uses creative strategies effectively
- Assists participants with reality testing next steps, particularly through the use of questioning and consultation with other agencies where appropriate
- Enables the participants develop clarity about their concerns
- Facilitates Agreement
- Writes Agreement
- Enables participants to complete a service evaluation
- Engages in 'evaluative feedback' session with co-mediator

Overall Rating (*please circle one*):      1 2 3 4 5

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Manages the Content of the Mediation

Obtains, identifies, organises, analyses, prioritises and evaluates information  
Assess the issues and options and reason logically  
Reads, comprehends and uses relevant written materials  
Write clearly and concisely, using neutral language  
Organises records and materials

Asks the participants to elicit information from other professionals (*such as appraisers, actuaries, accountants, mental health professionals, child protection professionals, lawyers*) with the objective of broadening rather than limiting the participants' options

Overall Rating (*please circle one*):      1 2 3 4 5

Comments: \_\_\_\_\_

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**Managing the Self**

- Demonstrates mastery of mediation process
- Demonstrates an awareness of ethical issues
- Engages in ongoing assessment of appropriateness of case for mediation
- Demonstrates appropriate level of skill, competence, and effectiveness
- Demonstrates ability to work with co-mediator and clients
- Demonstrates ability to self-reflect.

Overall Rating (*please circle one*):      1 2 3 4 5

Comments: \_\_\_\_\_

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## Section IV: Overview

1. What worked well and why?

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2. What might you have done differently and why?

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Signature of roleplay candidate:

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Date:

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**This form to be completed and returned to the assessor or agency arranging the mediation assessment on the date of assessment.**

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