

## **Monday**

### **08:30 – 09:30 - Welcoming Introduction**

- Trainer introduces themselves and tells them a bit about their background and mediation experience
- Candidates introduce themselves with their background, their reason for being on the course and their aspirations if and when they qualify
- Trainer explains the qualification; the current state of the mediation industry; the types of disputes that fall under civil/commercial mediation; takes them through the competence learning curve and the differences between the civil/commercial, family and workplace mediation models.

### **09:30 – 10:30 – Plan for the week**

- Trainer explains the agenda for the rest of the week
- Learning techniques will include lectures, discussions, role plays and observations
- Explain how some people pick it up quicker than others and some lawyers/barristers find it difficult to take their lawyer hats off and put themselves into the neutral position.

### **10:30 – 11:15 – Explanation of the Assessment on Friday (trainer goes through the assessment checklist handout)**

- Trainer takes candidates through the procedure for the assessment on Friday
- Candidates will do a practical mock mediation for the assessment that will be recorded
- The assessments will take place on Friday
- Each candidate will play party A, party B and the mediator in different scenarios. The mediator in each scenario will be being assessed.
- The practical assessment will last 120 minutes (2 separate 60 minute sessions) after which time the recording will be stopped. There are no rules as to how far you should get, but moving parties from their positions to interests must be achieved within the first hour. In the second hour, we want to see you receiving, exploring and delivering offers of potential settlement between the parties.
- The recordings are reviewed and results announced after 7 days.
- Dress code for assessment is smart/commercial.
- Candidates will be given 3 different scripts on Thursday evening – 1 for party A role; 1 for party B role and 1 for the role as the mediator. It is important that candidates do not show one another their scripts and that they learn their party scripts as well as their mediator one.
- The pass rate is approx. 90%.
- Trainer explains what happens if a candidate fails – each candidate is allowed 1 re-take, free of charge.

### **11:15 – 11:30 - Coffee break**

### **11:30 – 12:00 – Lecture/Discussion on the basics of mediation**

- The trainer takes candidates through the advantages and disadvantages of mediation
- Trainer explains the growth of the mediation market

- Trainer explains the core principles of mediation (voluntary, confidential etc.)

**12:00 – 13:00 – Exercise on the mediator’s opening statement**

- Trainer takes candidates through the handout on the mediator’s opening statement. Trainer goes through the handout with the delegates including an explanation of each point on the whiteboard and an acronym which the trainer uses (ACROPROP).
- Candidates are then put into groups of 3 to practice taking turns to be the mediator and practice their opening statement.

**13:00 – 13:15 – Feedback on exercise** (all candidates return to the middle of the room and a group discussion takes place with the trainer regarding how the exercise went).

**13:15 – 13:45 - LUNCH**

**13:45 – 14:15 – Talk on caucus 1,2,3,4**

- The handouts on each caucus outline the basic things you should be doing in each session, in terms of progress to make e.g. asking open questions to build up a picture and then moving on to ask probing questions later on.
- Trainer draws up on whiteboard a diagram featuring 3 separate stages to cover in caucus 1, 2 and 3 along with an explanation on what to cover in caucus 1 – namely, ensuring that a rapport is built with the party, asking open questions to build more of a picture of the dispute followed by the clear establishing of issues.

**14:15 – 15:30 - Role play exercise** (use background sheet of Todd v Mary).

- Split off into groups of 3 and role play the opening statement and caucus 1 with each party.

**15:30 – 15:45 – Coffee Break**

**15:45 – 16:30 – All candidates and the trainer(s) gather together.** Each candidate is then asked in turn to act out their opening statement in front of the group and trainer(s). Each candidate is timed and then given 1:1 feedback.

**16:30 – 17:30 - Lecture on Fisher & Ury’s principled theory of negotiation** (see lecture notes and powerpoint presentation).

**17:30 – 18:00 – Go through the assessment checklist with delegates**

- Trainer points out the common mistakes that can result in failure
- Emphasise that breaking confidentiality will result in automatic failure
- Point out that the list is not exhaustive and that the candidates do not have to have met all of the criteria to pass – we’re looking for an overall competence.

**18:00 – 18:30 – Time reserved for delegates to stay behind and have 1:1 discussions with trainer(s)**

Home reading extract: Give each delegate a copy of 'the disappearing opening statement' handout.

## **Tuesday**

**08:30 – 09:30** – Lecture on mediation and psychology (see lecture notes and powerpoint presentation)

**09:30 – 10:15** – Lecture on the process of questioning (see lecture notes and powerpoint presentation)

**10:15 – 10:30** – Coffee break

**10:30 – 11:15** Role play exercise (2 x background scenarios needed – use Apex Roofing and the Accountancy firm)

- Candidates are split off into pairs and take turns being the mediator. The candidate playing the mediator does not read the background brief, so as to ensure they know nothing at all about the case. The mediator is to ask questions in order to get the party to open up and reveal the story. Establishing the parties' issues must then be achieved. The party tells the mediator about the facts of the case and the mediator is then to engage in asking opening, exploring questions to make sure they get all of the issues out of the party (essentially putting the lecture into practice). In each pair, 1 candidate gets the background sheet for Apex Roofing and the other delegate gets background sheet for the accountancy firm). They swap roles after 20 minutes and use a different role play background sheet each.

**11:15 – 11:30** – Feedback on role play as a group

**11:30 – 12:00** - Lecture on moving parties from positions to their interests and needs (see lecture notes and powerpoint presentation)

**12:00 – 12:15** – Trainer takes candidates through the second phase of the whiteboard demonstration which illustrates how to move the parties from their positions to their interests.

**12:15 – 14:00** - Role play exercise (role play scenario needed – use Easy Love v Maximum Performance)

- Candidates split off into groups of 3 and do a role play mediation covering opening session, caucus 1 and caucus 2

**14:00 – 14:30** - LUNCH

**14:30 – 14:45** – Feedback on role play as a group

**14:45 – 15:45** - Lecture on Impasse including taking candidates through the impasse handouts (see lecture notes and powerpoint presentation)

**15:45 – 16:45** – Trainer gives a demonstration on the white board on the process of how to value a court claim and the roles of legal representatives in the process of mediation

**16:45 – 17:00** – Coffee Break

**17:00 – 18:00** – Discussion on the ethics of mediation including:

- Conflicts of interest between mediator and either of the parties
- The rules of confidentiality that must strictly be maintained during a mediation session
- The offering of legal advice by the mediator which is prohibited
- Bias and the need for the mediator to stay completely impartial.
- The need for the mediator to terminate a mediation session when necessary.

**18:00 – 18:30** – Time reserved for delegates to stay behind and have 1:1 discussions with trainer(s)

Home reading extract: Give each delegate a copy of 'Impasse is a Fallacy' handout

### **Wednesday**

**08:30 – 09:30** – Trainer acts out a full 60 minute mediation (as per the assessment expectation in the first half of the assessment on Friday) and chooses 2 delegates to act as party A and party B. (Easy Love v Maximum Performance role play scenario used)

**09:30 – 10:00** – Feedback on role play as a group – trainer explains what went well, what didn't go so well etc.

**10:00 - 11:00** - Lecture on problem solving & creativity (see lecture notes and powerpoint presentation)

**11:00 – 11:15** – Coffee break

**11:15 – 12:15** - Role play exercise (role play scenario needed – use Kirby Consultancy scenario).

- Candidates are split off into pairs and take turns being the mediator. The party has a list of wide/vague issues in the dispute and it's the mediator's job to break the issues down into manageable chunks and then clarify the issues. This case scenario is deliberately chosen as there are lots of issues within it which forces the mediate to manage them. Candidates then swap roles and use the other brief as mediator.

**12:15 – 12:30** – Feedback on role play as a group

**12:30 – 13:15** - Lecture on the flexibility of mediation settlements compared to those available through litigation (see flexibility of mediation settlements lecture notes).

- Any anecdotes that the trainers may have from personal experience of mediating are really useful here.

**13:15 – 13:45** - LUNCH

**13:45 – 16:00** - Role play exercise (role play scenario needed – use Shoe Planet)

- Candidates split off into groups of 3 and role play a mediation covering the opening session, caucus 1,2 and 3. Switching roles after 45 minutes each.

**16:00 – 16:15** – Feedback on role play exercise as a group

**16:15 – 16:30** – Coffee Break

**16:30 – 17:00** – Trainer's exercise on reframing

**17:00 – 18:00** – Talk on settlement negotiations

**18:00 – 18:30** – Time reserved for delegates to stay behind and have 1:1 discussions with trainer(s)

Home reading extract: Give each delegate a copy of the 'bridging the great divide – communication' handout.

## **Thursday**

**08:30 – 09:30** - Trainer acts out a full 60 minute mediation (as per the assessment expectation in the first half of the assessment on Friday) and chooses 2 delegates to act as party A and party B. (Easy Love v Maximum Performance role play scenario used)

**09:30 – 09:45** - Feedback on role play as a group – trainer explains what went well, what didn't go so well etc.

**09:45 – 12:15** - Role play exercise on the delivering of offers (role play scenario needed – use the 3 x different versions of Shoe Planet 2<sup>nd</sup> half briefs). 45 minutes each and then swap roles. This exercise includes a 15 minute coffee break mid-way through

- Candidates split off into groups of 3, taking turns to be mediator. There are 3 different versions of the Shoe Planet brief, each with different offers in them. Within each group, one person is assigned the role of mediator, one is assigned the role of Party A, and one is assigned the role of Party B for each version.
- Version 1 is used first and the mediator starts with Party A who is given an offer to deliver to the mediator. The mediator is to Clarify the offer with the party; Coach the party on that offer (including asking for further detail on any parts which may be vague) and then Communicate it back to them, before going across and delivering it to the other side.
- Once the mediator has delivered the offer to Party B, that party has a counter offer to make and the mediator repeats the process with Party B.

- After 45 minutes, the candidates swap roles and move onto version 2 and then version 3, 45 minutes after that.

**12:15 – 13:15** – Lecture on the cultural differences in mediation (see lecture notes and powerpoint presentation)

**13:15 – 13:45** – LUNCH

**13:45 – 14:45** – Lecture on Emotional Intelligence (see lecture notes and powerpoint presentation)

**14:45 – 17:45** - Role play exercise (use Computer Galaxy v Linda Miles)

- Candidates split off into groups of 3 and go through as much of the mediation process as time will allow. This case is chosen deliberately as it is a case involving only £300 in dispute. As such, it is the type of case that would be worked through more swiftly than other cases due to not having the luxury of a whole day due to budget. (60 mins each playing the mediator)

**17:45 – 18:00** – Feedback on role play as a group

**18:00 – 18:30** – Trainer gives a talk on exam tips and the plan for the assessment on Friday (each candidate will have been sent their briefs and timetable earlier on this afternoon).

**18:30 – 19:00** - Time reserved for delegates to stay behind and have 1:1 discussions with trainer(s)

Home reading extract: Give each delegate a copy of 'emotions in mediation' handout.

## **Friday**

### **Assessments**

**10:00 – 13:15** – The group is split into groups of 3. In each group, each person mediates for 60 minutes with the other 2 people playing party A and party B. There is a 5 minute break between each mediator finishing, and the next one starting. Each 60 minute mediation uses a different role play scenario.

**13:15 – 13:45** – LUNCH and the second hour assessment briefs given out. These second hour assessment briefs (for the parties) outline the offers that are going to be given by each party during the settlement negotiation phase of the assessment.

**13:45 – 17:00** – Each group of 3 goes back into role play, with the person who played mediator first during the morning session, mediating first again. This 60 minute mediation tests the mediator on their ability to receive, explore and deliver offers of settlement between the parties.

**Total duration of course (excluding lunch and coffee breaks): 43 hours**