

MATA

Mediation and Training Alternatives

Building a Mediation Practice

Introduction

Being well trained and obtaining accreditation is only the first step to becoming a successful commercial Mediator. There are a lot of accredited Mediators out there who have little or no work. Those that do have work usually have a 'day job' with mediations as a happy 'bolt-on'. Very few are able to generate enough income from commercial mediation to be self-supporting. But some do, and this paper is to try to help everyone get into that select and happy band.

What have you got to offer?

The first thing is to really work out what makes you different from the many other Mediators looking for work. Start with the general and work up to the specific and end with the personal. General being gender, age, lawyer/non-lawyer and so on; specific being work experience, areas of expertise, qualifications, interests, any particular specialism or niche and so on; personal being what you are good at (numbers, chairing meetings, facilitating others, rapport-building and so on). Identify your USP (unique selling points). If nothing else this will give you the basis of a Mediator profile that is much more appealing than a conventional CV. And when you write that profile, summarise your USP's at the start, so that the reader will know you are different from the other Mediators being considered for work.

Create experience

No-one wants to employ an inexperienced Mediator, so getting experience is the first challenge. The best way is through Assistantships (or 'Pupilages') – accompanying Lead Mediators on real mediations. Most Mediators mediate alone and every time that happens it is a missed opportunity. So find out the names of the established commercial Mediators (Chamber's Directory is a good start) and woo them. Work out what they have to offer (specialisms etc) and highlighting your added value without appearing to be pushy (non-lawyer to a lawyer Mediator, male/female to their female/male, specialist knowledge and so on). The essential requirement is availability (being prepared to go on a mediation at short notice) and making life easy for the Mediator. Meeting up with them is a good move – it helps to reassure the Mediator that you are safe and could be good company; the down-side is that the Mediator will anticipate the reason for meeting up is to get work and so you may meet resistance from some of the busier Mediators. Cornering one at a social event is probably the best strategy! Most of us are more malleable with a drink in our hand.

The Chartered Institute of Arbitrators, partnering with MATA, have created www.learningcommunityonline.org and one of its purposes is to post assistantships from the schemes that it administers and the panel appointments that it receives. It is hoped that the site will become the regular source of assistantships as more people register (which is currently free).

A well-known American Mediator was once asked "How did you convince people to use you when you had little or no experience?". "I lied" he replied. I don't advocate that but you can be creative with the extent of your experience. Every Assistantship is a case to

go on your profile. More than that, most cases span more than one sector (an Architect's professional negligence case is, at the very least, insurance and construction and may also be property and partnership sectors) so you can be (truthfully) creative about your areas of experience.

Some newly-trained commercial Mediators join local community mediation groups, partly because these groups are always in need of good quality volunteers and partly because it is a way of keeping the essential Mediator skills polished and effective. It is also a very rewarding (and challenging) area of work.

Personal network

The people most likely to use you as a Mediator are those that already know you. So draw up a comprehensive list of contacts (business and social), grade them from 'hot' prospects to 'tepid' and make them fully aware of what mediation is and what you have to offer.

Joining Mediator Groups/Panels

There are several Mediator groupings in the UK, the most established being The Association of Northern Mediators () and the Association of Midland Mediators (). These are groupings set up primarily for mutual support, the sharing of experience and the development of mediation as a profession. Whether or not they lead to work, they are a very worthwhile source of meeting other people who operate in what is generally a very solitary profession.

At the time of writing this paper there are just over 40 Mediation Providers (bodies offering the services of Mediators) in the UK accredited with the Civil Mediation Council. Accreditation gives the Providers access to the Court Schemes, which is where most inexperienced Mediators get their first cases. With so many Mediators (and Providers) around most Providers are now stipulating an entry level for their panel of Mediators and so it can be quite hard to get accepted. Even being on the panel does not guarantee getting any cases and so it can take some time to gather a body of experience, and therefore confidence. But it is one of several possible routes to getting appointments.

Marketing

Aside from your own network of contacts there is a huge body of potential users of mediation that are ignorant and in need of knowing the benefits that mediation offers. The problem is reaching them. Most commercial cases are controlled by the lawyers and so they are the gatekeepers to appointments. Law firms generally have their own pet Mediator list and it can be quite difficult to break through that barrier. The obvious target is therefore business itself – after all, it is business that stands the most to gain from mediating disputes, not the lawyers. Breakfast/lunchtime/early evening awareness seminars to businesses, Chambers of Commerce and professional institute branches can spread the message and your name. The best form of awareness event is a commented demonstration¹ although it is very difficult to fit one into an hour.

As far as marketing materials are concerned, hard-copy materials (other than business cards) rarely justify their cost but having an attractive one-page electronic information sheet is a useful follow-up for any contact. A smart, quality business card is always an asset, especially if it includes a photograph (no-one recalls a face from a card received six months ago). This can be the most effective way of getting your name known most widely.

¹ see www.mata.org.uk for a library of role play case studies

A lot of people use the writing of articles for professional journals as a way of getting their name known. The trouble is that general articles on mediation have already been written and so editors are now looking for more focussed or specialised articles which are only really possible with experience.

Conclusion

As with most new businesses, it takes a lot of time, patience and determination to get a mediation practice established. It is a long-term project, probably (unless you are lucky or have a ready-made market) requiring at least two years before the investment yields return. Your best strategy is:

- capitalise on your USP
- work your personal network
- sweet-talk an experienced Lead Mediator (or two) for assistantships
- design an attractive information sheet and quality business card
- join an active Mediator association.

And remember – Mediation is a life-changing experience, both for the party and for you. It is a privilege to be involved, and worth the frustration and cost of getting there.
Good luck!

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