

Conflict Management Coaching

A novel way to resolve mediations faster

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I would like to spend some time today talking about Conflict Management Coaching, which I believe has an important role to play in enhancing the Franchise Mediation process.

Speaking as a Mediator, the best thing a lawyer can do in preparing their clients for a mediation is to get their client to think deeply about the issues, understand what is driving their thinking and feelings, and be aware of what they (the client) really wants. What they want for themselves, what they want for other relevant stakeholders and what they want for the other party.

In addition, if the client can reflect on and recognise how they may have contributed to the situation and have some understanding of the other party's perspective before we walk into the mediation, then we are well on the way to successfully resolving the conflict.

Now I suspect that many of you would seek to do this as part of your ongoing discussions with your clients. But I also suspect that few of you actually manage to get clients to shift from a "rights/position" mindset, and that you see the mediation process as the means by which this shift will occur.

The magic of mediation is often simply getting the parties to sit down together, giving them a chance to tell their story, listen to each other, and reflect on what is said. "Perspective taking" is ultimately what drives parties to be able explore solutions and move forward to resolution.

The mediation process works brilliantly, but it takes time. In the current model (as in litigation), parties tend to come into the mediation with a strong focus on their rights and position and little regard for the other sides perspective. (“Those idiots have no idea. They are just being pigheaded. My lawyer says we have a strong case. The facts are on my side...”)

I would like to suggest that there is a better way. Conflict Management Coaching is a process being used in workplace disputes with great success and is starting to be used successfully as an adjunct to different types of mediation. I believe that Conflict Management Coaching could and should be used in franchising mediations to fast track each party’s ability to reflect, perspective take and explore solutions before the formal mediation commences. I will shortly share with you a recent experience where I used Conflict Management Coaching to successfully resolve a dispute.

What is Conflict Management Coaching?

A Canadian colleague of mine, Cinnie Noble, has developed a highly effective coaching model (the CINERGY Model) and provides the following definition of Conflict Management Coaching:

“Conflict Management Coaching is a structured process that helps people on a one on one basis to develop or enhance their skills, knowledge and competencies, to engage in and manage interpersonal conflict effectively.”

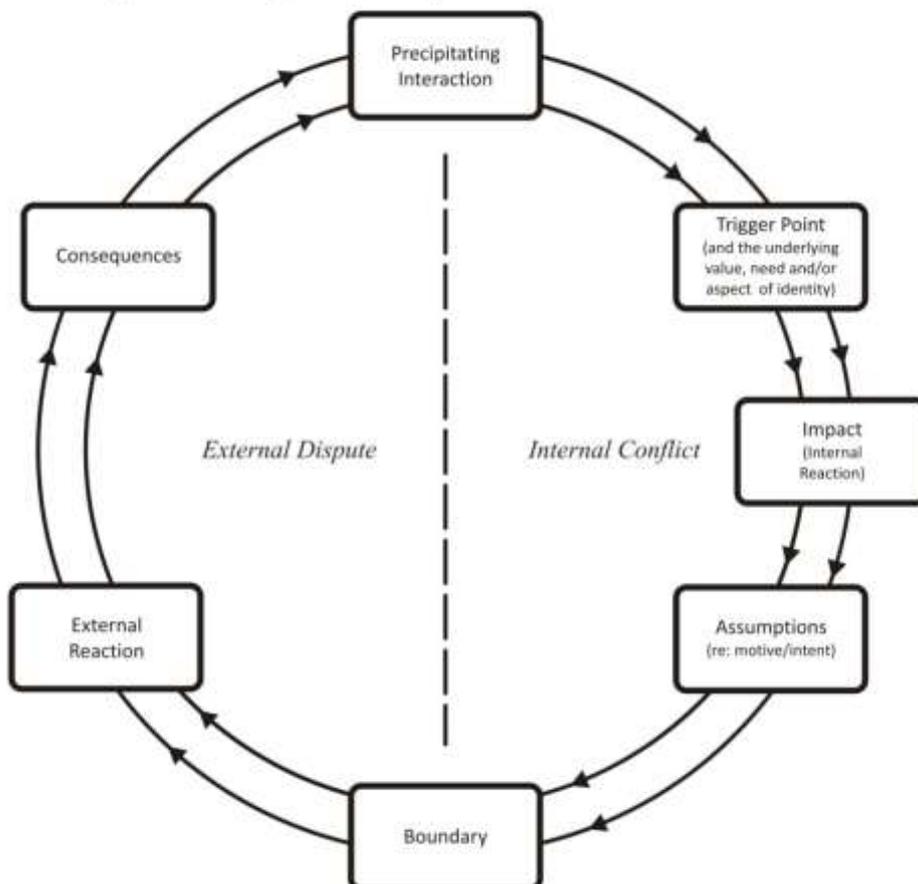
The coaching process involves a coach working with the client prior to the mediation. If the parties agree and the mediator is suitably qualified, the mediator may act as the coach for both parties. Alternatively, a third party or parties might act as coach. And it will often be

perfectly appropriate for suitably qualified lawyers to expand their role to include the role of ‘conflict management coach’ as part of their brief.

How does it work?

Each coaching session generally lasts between 60-90 minutes. The coach will ask the client a series of questions designed to get them to think deeply about the situation. If the coach is using the CINERGY model they will often take the client through “The (not so) merry-go-round of conflict” diagram to enable the client to better understand how conflict develops and assist them to take a more detached view of the situation. See below.

The (Not So) Merry Go Round of Conflict



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The right half of the slide is showing the internal conflict – what is going on internally, while the left side is dealing with the External Dispute where others can observe your actions and behaviour.

We begin with a **Precipitating Interaction** – one or more incidents where we begin to experience discordant thoughts and emotional or other responses about the other person.

At this point you may not be aware of what is going on, but you know that something is happening that is causing you to feel uncomfortable about the situation.

There is then a **Trigger Point** – some specific actions or words that the other person does or says, or omits to say or do, that create negative emotions in us.

The trigger is linked to **Values, Needs &/or aspects of our identity** that we perceive are being challenged threatened or undermined by the other persons provoking actions or words.

You will then have an **Internal Reaction (impact)** – usually some emotional reaction as a consequence of the action, words etc from the other person. You might feel hurt, embarrassed, fearful or angry etc

You then find yourself making **Assumptions and interpretations** in terms of the other person's motives and intent. We will often unfairly attribute bad intent to explain the other person's behaviour. They are trying to make me look bad, they don't respect me. They are lazy, stupid. etc.

At some point we reach our **Boundary** where we have had enough and cannot contain ourselves any longer. We then find ourselves crossing the line and moving into public forum and reacting in ways that can be seen or heard by others.

There are then **Consequences** that flow from your reaction and so it goes on.

Regardless of whether the process of conflict has been explained, the coach then works through a series of steps and questions designed to enable the client to reflect on the underlying causes of the dispute, consider what values, needs or aspects of their identity may have been threatened and what assumptions and interpretations they are making about the other parties conduct.

The client is then asked to step into the shoes of the other party and consider the same questions from the other party's perspective. (The notion of "Mutuality" is an integral part of the exercise). It should be noted that these are the very same things that a good mediator will explore with the parties during the mediation. To give you a better feel for this I'll share some of the questions I used with the parties in a recent mediation:

1. What prompted or triggered you to take the action that gave rise to the dispute?
2. In terms of your values and principles, what do you feel was at stake here?
3. How do you wish to be perceived as a franchisor/ee by your franchisees /or?
4. How did you feel when you learnt that [the franchisee had / franchisor had]?
5. What assumptions did you make about the franchisee's / franchisors conduct?

6. What have been the consequences of your / their actions?
7. How might you have contributed to the situation?
8. What options might there be to resolve the dispute?

Conclusion

On the basis of my own experience and discussions I have had with other experienced mediators, I believe that most franchise mediations could be resolved in substantially shorter timeframes than is currently the case if Conflict Management Coaching was part of the process. Not only would there be time and cost benefits, but the likelihood would be that parties would find the whole process less traumatic as they will have considered each other's perspective before entering the room.

To quote the franchisor in my recent mediation:

"I wish all of my mediations had been done like this".

He then proceeded to drive his former franchisee to the airport. The chances of this happening at the beginning of the day were zero.

As an afterthought, I suspect that with the benefit of Conflict Management Coaching, many franchise disputes would be resolved without the need for formal mediation.

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