

WORKING WITH INTERPRETERS

Clear communication and understanding are necessary for the success of any mediation. To increase the prospects of a resolution being achieved, everyone must be aware of the difficulties that have arisen, the meaning of questions asked or answers given in the course of a mediation meeting, and the terms of any agreement. This is true in any situation, but special difficulties will arise when people have hearing or speech problems, or where there is no common language between the parties, and it is here that the use of a signer, language therapist or interpreter may be required.

In many situations, such as where the parties share no common language whatsoever, the necessity is clear. In less obvious situations, such as where someone has limited understanding of a language, the issue will need sensitive exploration. If the mediator identifies a potential difficulty in communication he/she should explore with the relevant party/parties whether the use of an interpreter, signer or language therapist would be useful. The mediator will be able to help inform the decision, for instance by describing the nature of a mediation meeting and the importance of accurate communication. Some parties may be able to "get by" with conversations where the speaker pronounces clearly and slowly, but this may not be sufficient when they or the other party is anxious and under stress. Being unable to fully understand what is happening and being said will only add to their natural anxiety. In the end, however, this will normally be a decision for the party themselves. Do not fall into the trap of assuming someone is "slow" because their grasp of English is uncertain. They may well be an outstanding research physicist and a leading, highly respected member of the community!

The role of the interpreter is to provide an accurate, literal translation of what is being said. This requires an understanding of and confidence in both languages, but also an understanding of cultural contexts and non-verbal communication. In some cultures, for instance, a nod of the head means yes, in others it means the opposite.

There are certain core points that mediators should be aware of as regards the use of interpreters:

- 1** Give careful thought to issues of confidentiality, and make sure that the interpreter is made aware of their obligations in this regard. It is worth remembering that in many communities almost everyone is known to each other, and that this can sometimes cause problems. Make sure these issues are discussed with the parties to the mediation.
- 2** Speak to the interpreter in advance of meeting with the parties. Check out their command of the language and culture. Ensure they know any dialect that may be involved. For instance in many areas of China different languages and dialects are in use. Do not assume that because one party is Chinese and the interpreter is Chinese that they will necessarily be able to understand each other. Check out if there are any obvious cultural differences that may need to be addressed or recognised.
- 3** Prepare the interpreter so that they understand the mediation process and their role. Ensure they appreciate that it is essential they translate what is being said accurately, literally and impartially. Interpreters have on occasion been known to translate into what they feel should have been said or what they think the mediators would like to hear, rather than the actual sentiment! Their function is to translate exactly what the mediator, the party or the other party is saying.
- 4** The interpreter should interpret everything that is said and therefore it is important that there is only one conversation at a time. The mediator must ensure this happens otherwise there may be confusion and misunderstanding.
- 5** Remember to address the party rather than the interpreter. The interpreter should be an aid to the mediation process not a party to it. Keep eye contact with the parties and apart from the initial introductions ignore the interpreter unless there is a problem. Tell the interpreter in advance that this is your practice. Try to ensure that the parties face each other when speaking and listening. Be aware of how much the parties are following the discussion. If necessary check out with them that they are comfortable with the process.
- 6** Allow more time for each stage of the mediation. Take more breaks to allow for the greater concentration required.

continued from previous page...

- 7 Keep language as simple as is possible. Avoid slang and wherever possible use short, clear sentences. Check out with the interpreter how often they need a pause to translate and let both parties know this. Ensure everyone speaks clearly and pauses as required by the interpreter.
- 8 Allow a longer time for responses although this may feel strange or uncomfortable.
- 9 If the outcome of the mediation is a written agreement, ensure that parties have a draft copy in front of them when checking it over and, where possible, have copies drafted in all the languages used. If the agreement is verbal, take particular care to ensure everyone is clear about what they are agreeing to. It may be appropriate to simply agree verbally and then prepare a written agreement later particularly if the meeting has been long and everyone is tired.

This approach should assist the parties to be more comfortable with the process as well as making the meeting itself more straightforward. There is no reason why the presence of an interpreter should make the process more difficult, although it will probably make it feel more deliberate and cumbersome. The effective use of interpreters is to be encouraged, as it will lead other people from particular groups in the community to seek mediation when they encounter problems or difficulties they might otherwise have accepted silently.

The referring party may be able to assist the mediators to obtain the services of an independent interpreter, as may the other party concerned. Where neither can assist then the local Council should be able to help. It is important that any interpreter used is independent and that the parties know and understand that. It is better if your service develops its own resource list of available interpreters, and seriously considers making basic service information available in forms accessible to as many groups in the community as possible. Wherever possible, interpreting services should be free to the parties involved in the mediation so as to avoid discrimination in service delivery.

Relevant Legislation:

Race Relations Acts, Disability Discrimination Act

Sources:

- > *Working with an Interpreter* – Joanna Davey – June 2001 edition Mediation U.K.
- > *The Mediators Handbook* – Beer & Stief (3d Edition) – NSP
- > *Equal Treatment Training* – Judicial Studies Board



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