



# In the beginning was . . . the word

Cycles of Influence: A historical analysis of some seminal influences on the evolutionary development of mediation principles, values and practice models.

by Tony Whatling.

## Abstract

A historical analysis of seminal influences on the evolutionary development of mediation principles, values and practice models. This article will focus on the ideas of pioneering individuals who had a significant role and influence on contemporary mediation principles and practice. It will describe their professional field of practice; the particular principles and values that underpinned their practice; the theoretical models and styles of practice they developed and how those became transported into contemporary mediation practice. The relevance for mediation is to raise awareness of the centrality, significance, and importance of these key principles. Ideally, this will in turn impact on the quality of contemporary practice. Hopefully it will inform or remind reflective practitioners, trainers, and practice consultants of what constitutes the foundations of best practice.

**Key words:** mediation, principles, practice models, counselling, client-centred.



## **Introduction**

The individuals described in what follows are deliberately chosen from outside the realm of the many mediation theorists, writers and practitioners who have contributed so significantly to the evolution of dispute resolution principles and practice.

My thesis is that these contributions to present-day mediation practice go to the essence and roots of our principles, knowledge, skills and strategies. The justification for such in-depth analysis and focus is to raise awareness of the centrality, significance, and importance of these key principles. Ideally, this will in turn impact on the quality of contemporary practice. It may also inform or remind reflective practitioners, trainers, and practice consultants of what constitutes the foundations of best practice.

### **How did we get here? Where to start and with which particular influential pioneers?**

For me, there can be no better person to start with than Carl Rogers, who believed that humans have one basic motive, that is, the urge and motivation to become 'self-actualised', to fulfil one's potential and achieve the highest level of 'human-beingness' possible. He believed that for a person to achieve self-actualisation, they must be in a state of 'congruence.' He became known particularly for his influential psychotherapy style, known as 'Client-Centered Therapy.' One of the founding figures of 'humanistic psychology,' he was widely regarded as one of the most eminent thinkers of his era in psychology. A common misunderstanding about this theory is that self-actualisation is an achievable arrival point or end goal in life. In reality, it should be regarded as a 'lifelong aspirational journey'.

Another key principle for Rogers is that of 'congruence.' We may say that freedom from inner tension, or psychological adjustment, exists when the concept of self is at least roughly congruent with all the experiences of the organism. Rogers (1951: 513).



Here again, he assumed congruence, not to be an achievable arrival point, but yet another example of a lifelong journey.

### **Rogers' 'several conditions'**

With a level of modesty that was typical of Rogers, and potentially comforting and reassuring to students of therapy and counselling, he writes:

As I have considered my own clinical experience and that of my colleagues, together with the pertinent research which is available, I have drawn out several conditions which seem to me to be necessary to initiate constructive personality change and which, taken together, appear to be sufficient to inaugurate that process. As I have worked on this problem I have found myself surprised at the simplicity of what has emerged. (Rogers 1957: 95).

In short, the reference to 'several conditions' relates to what might be regarded as an essential package of demonstrable verbal and non-verbal communications, designed to establish rapport, respect and trust between helper and client. This early preparation with the client forms the ground work for any necessary emotional and/or behavioural changes agreed during the process as therapeutically beneficial for the client's future.

To explore these in more detail, these conditions include 'unconditional positive regard' (UPR).

The therapist experiences a warm caring for the client – a caring which is not possessive, which demands no personal gratification. It is an atmosphere which simply demonstrates "I care"; not "I care for you *if* you behave thus and so." I have often used the term "acceptance" to describe this aspect of the therapeutic climate. (Rogers 1967: 283).

Whilst this UPR label has not been literally translated into mainstream mediation values, it nevertheless clearly underpins a key quality benchmark of the mediator and client relationship.

**The non-judgmental attitude:** Is based on a conviction that the casework function excludes assigning guilt or innocence, or degree of client responsibility for causation of the problems or needs, but does include making evaluative judgements about the



attitudes, standards, or actions of the client; the attitude, which involves both thought and feeling elements, is transmitted to the client. (Rogers 1957: 90).

Again, this acknowledges that there will be times when, for reasons of safety, danger and risk assessment towards self and/or others, certain freedoms and rights may need to be removed partially or totally from the client.

### **Other writers work on similar themes to those defined above by Rogers.**

Felix Biestek, an American Jesuit priest and university professor, made significant contributions to the field of social work during its period of expansion following World War II, particularly bearing in mind similarities with Rogers on the one hand, and potential links to mediation practice on the other. He starts by describing the essence of the casework relationship as:

Social casework has been defined as "an art in which knowledge of the science of human relations and skill in a relationship are used to mobilize capacities in the individual and resources in the community appropriate for better adjustment between the client and all or part of his total environment." (Biestek 1957: 3)

Given the limits on the length of JMACA articles, Biestek's principles will not all be explored in detail here. However, they do align closely with Rogers and include: individualisation; purposeful expression of feelings; controlled emotional involvement; empathy; acceptance and purposeful expression of feelings.

**Empathy:** Another principle very familiar to therapists and mediators, the early evolution of this term is interestingly described by Biestek as:

The casework relationship differs from others on several points. The caseworker and client are fundamentally equal as human beings; but in the casework situation, the caseworker is the helping person, while the client is the person seeking help. The term 'relationship' is of a rather recent origin, dating from Miss Virginia Robinson's book 'A Changing Psychology in Social Care', published in 1930. "Sympathy" was another of the early terms; it emphasized the emotional component in successful communication with clients. "Empathy" replaced "Sympathy" in the terminology of some social workers because it seemed to express a more realistic sharing in the feelings of the client (Biestek 1957: 6-7).



### **What might we expect as ‘help seekers’ – the ‘acid-test’?**

At this point, the reader might care to consider what sort of practitioner they would hope to meet if attending a first mediation appointment. It may be difficult to order these qualities on a scale of ‘essential’ at one end and ‘desirable’ at the other. Should this be so, it would tend to underscore the idea of Rogers’ ‘several conditions’ as more of a complete package, or parcel from which the ‘qualitative total is greater than the sum of its parts.’ Another way of thinking about this is to consider which of our many mediation practitioner colleagues would we most trust to send a close friend or family member to for help. I no longer have the research study reference but do recall that across a range of professions, including therapists, the outcome in terms of high trustworthiness was around 2-5% – a sobering thought.

Many years ago a research study across a very wide spectrum of contexts ranging from counselling to sales, found what became known as ‘The first four minutes.’ The study claimed that in new encounters, on average we take about four minutes to decide whether a relationship is likely to progress beneficially and whether the person presenting is trustworthy or not. This idea can be somewhat alarming for students across the wide range of professional carers in health care and therapeutic contexts. My sense is that if we don’t make it in four minutes, all may not be lost. However, even if this is so, it may be that we are going to have to work harder to recover and establish a good enough relationship if we fail the four-minute test. Sadly it has not been possible to locate this original research online but it is described by other writers such as Leonard Zunin’s and Natalie Zunin’s 1989 paperback ‘Mass Market’.

### **Some brief descriptions of the historical development of certain counselling styles and models that embody the client-centred principles described above and their subsequent importation to dispute resolution practice.**

It was as though, having defined some essential client-centred principles, certain therapists felt the need to design a structural process through which those principles could be enacted in a way that enabled practitioners to set about ‘doing things’ rather than just ‘thinking or believing things’.



### **Task-centred practice. (TCP).**

A four-step process that trains practitioners to work closely with clients to establish distinct and achievable goals based on an agreed-upon presenting problem, usually called the target problem. Under TCP, a maximum of three target problems are identified by the client and the social worker. The social worker and client co-create a contract that contains the target problem, tasks to be implemented by both client and practitioner to address the target problem, and the overall goals of the treatment. Client priorities and strengths are interwoven into the entire TCP process. Once core problems have been successfully defined and goals established, a three-stage plan is defined to facilitate the intended changes. (Reid & Epstein 1972).

### **Egan's three-stage model:**

The skilled helper model is characterised by two overall goals – help clients manage problems by effective living and resource management and help clients help themselves in their everyday lives. This model has three stages, which exist on an action continuum. Stage one: Identifying key issues calling for change. Stage two: What solutions make sense for me? – Helping client determine outcomes. Finally, the skilled helper works with the client to formulate actionable plans.

What is particularly interesting about this model is that, yet again, it firmly situates the helping process in client strengths and capacities, rather than in a helpless pathology model. It also usefully connects to Rogers' core conditions as referred to above.

### **Solution-Focused Therapy.**

Finally in this brief analysis of person-centred; time-limited; task focussed empowerment styles and models is Solution-Focused Brief Therapy (SFBT), also called Solution Focused Therapy. As the name suggests, SFBT is conceived as future-focused and goal-directed. It focuses on solutions, rather than on the problems that brought clients to seek therapy. SFT is: A short-term goal-focused evidence-based therapeutic approach which helps clients change by constructing solutions rather than dwelling on problems. SF therapists and their clients consistently collaborate in identifying goals reflective of clients' best hopes and developing satisfying solutions. (Shazer & Berg



1986). Yet again, this approach echoes all the other models in its fundamental principles, particularly those related to the client as 'expert' in their problems.

**What essential characteristics emerge from the above range of counselling and therapy principles, models, methods and styles?**

This might be an appropriate point to refer to ideas about the common ground and emerging characteristics of counselling, therapeutic and indeed ultimately mediation practice. What has become evident over the years is that, regardless of the number of process stages, all of the above and many other methods involve a fundamentally common formula. Working closely with the client, practitioners seek to establish:

- the nature of the problem;
- when the problem first started;
- what if anything happened to cause the problem;
- what effect it is having, personally, socially, at work, in the family;
- who else is involved and affected and in what way;
- what has been tried so far to change it;
- what happened when they tried that: how would they now like it to be different;
- what needs to be done to make that possible; who else might be able to help that to happen and
- what, when, and how would they need to do that so as to facilitate change

Such structural frameworks differ from the more traditional psychoanalytic and psychodynamic models and mark a significant shift in the power balance between client and helper.

While the application of these theories, strategies and techniques are likely apparent to practicing mediators, let's use a case example to illustrate the direct influence of certain of the approaches developed by Rogers, Egan, Reid and Epstein, and Shazer and Berg.



A trainee mediator, having observed some mediation practice examples, returned to the next training module to describe the following situation. A reluctant client, persuaded by his legal advisor, was attending his initial solo intake and assessment appointment and arrived in a very agitated state. It transpired that participating in the mediation would mean the loss of a day's wages. Traffic problems had caused delays and car parks nearest to the centre were full. Having eventually found parking some distance away, he had walked through heavy rain and was late for the appointment.

The mediator, commented on his lateness, and pointed out that it would time-limit the meeting. At this, the client became very agitated, pointing out that he had not wanted to attend in the first place, and that he was in no doubt that it would all be a waste of time. He concluded with some comments about mediators as 'elderly volunteer do-gooders poking their noses into other people's business', and that he was leaving. The mediator allegedly responded very defensively and explained that she like all mediators were highly trained and experienced. She added that she resented his reference to her age and, in the circumstances, she was not prepared to proceed with the session. The trainee wanted an opinion on how the mediator had handled it.

Based on what the trainee had described, it may be worth considering, for example, how Rogers might have responded – perhaps with something along the lines of: “It sounds like this has not been a good day for you and I am sensing that feels very frustrating for you right now. I understand that you were far from sure that it would be a worthwhile thing to do in the first place, it means you will lose pay, parking was bad and to make things even worse you are very wet from the heavy rain. You have also said that you have some doubts about how mediators have been professionally trained, so I imagine that too would also add to your thoughts of leaving. Given all that has happened to you so far today I guess that would be a very understandable thing to do, and of course you are free to do that without it counting against you in any way, if you decide to opt for the courts route. If I have the picture right so far I





guess I am wondering if, given that you are now here and out of the rain, there is anything we could do here to improve on how the rest of the day goes for you.”

One problem here is that the above only gives a one-dimensional perception of Rogers’ style of communication, when in reality it would have involved verbal and non-verbal interactions between therapist and client. Rogers was renowned for primarily summarising rather than asking questions, and never ever proposing options or solutions. However, given that this is not primarily a therapeutic encounter, we might suppose that a client-centred mediator might then add something like: “Given that the day so far has not been good to you, but that you are now here, I guess something else that you could consider is to let me make you some tea or coffee and to give you chance to dry out a bit. If that sounds OK to you, we could also use some time for me to tell you more about mediation, how it works and what it can and cannot help with. I would be happy to answer any questions you might have. You would still be free to leave at any point or take more time to consider the mediation option, maybe after talking it through with other people you trust”.

Anecdotally from experience, many clients, when helped to calm down from such high emotion, tend to apologise for what they had said and any offence they caused. See more detailed writing on constructive management of such challenging client communications in Chapter 8 of my 2012 book ‘Mediation Skills and Strategies - A Practical Guide’.

Although the above example involved a solo client assessment interview in what might hopefully develop into a joint party mediation process, it nevertheless can still be seen to contain all the key elements of a strategic process, such as that of Egan’s three stage model described above. In other words, the client is firstly helped to identify the issues in the dispute (in this instance with the helper); secondly to develop potential options (the offer of a hot drink, drying out and talk-time); and thirdly the agreement to the option acceptable to the client, sometimes referred to by Egan as a client’s ‘preferred scenario’. In other words, most of the therapeutic



strategies explored above can be applied to one encounter or to an agreed series of meetings designed to improve the client's emotional and psychological well-being.

Notwithstanding any client or professional practitioner's right to withdraw, the above case might usefully be considered in the context of another description of this principle:

The caseworker values the expression of the client's feelings. He values them because they are aspects of the client's personality, but also because their expression helps the client to begin to understand their force and mode of expression. The conception behind this is that the feelings are operating within the client independently of him. They are forces working within him over which he cannot have control unless he recognises them for what they are. (Timms 1964: 72).

In short, what the client needed was a 'response' that demonstrated all of the client-centred principles explored so far. Instead, what he received was a highly defensive 'reaction' based on the practitioner's personal perception of his frustration. In reality it can be seen as what we might call 'his stuff' was projected on to her. It was not 'her stuff' nor indeed 'their stuff'.

Finally, mediation practitioners, theorists and researchers have become very clear in their opinions that mediation is not therapy, and hence that the outcomes and objectives are not primarily what they would have been in a therapeutic setting. Nevertheless, many practitioners know from their clients that when done well, therapy may be a serendipitous added value.

## Conclusions

As indicated in the introduction, this study has highlighted some significant pioneers for their influence on and contribution to present day dispute resolution practice. It starts with their identification of certain principles and values that they believed to be essential for innovative 'client-centred' practice. Those 'what' values in turn 'morphed' into the 'how' of structural frameworks, models and styles, designed to reflect and encapsulate effective delivery of the principles. These pioneers and 'early-settlers' increasingly conferred, sharing ideas and knowledge, in recursive



cycles of challenging and learning from each other. This in turn, as with mediation, spawned counselling and therapy membership and regulatory bodies designed to further knowledge, and research.

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