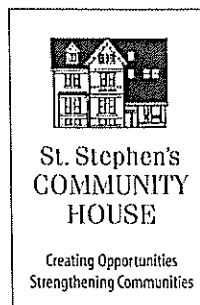


Effective Conflict Resolution Skills

Society of Graduate and Professional Students (SGPS)
Queen's University

January 22 & 23, 2011



Conflict Resolution Service

©Conflict Resolution Service, St. Stephen's Community House

TABLE OF CONTENTS

Introduction to Conflict Resolution Service and Workshop Overview	1
Supportive Feedback Techniques	2
Self-Reflections: Conflict situations	3
Understanding Conflict	5
Dynamics of Conflict Escalation	6
Styles in Responding to Conflict & Approaches to Conflict	7, 8
Communication Blockers	9
Listening for Interests	10
Active Listening Techniques	12
Different Ways of Asking Questions	13
Raising Concerns	15
Strategies for Different Stages of Anger	20
Reframing	22
Reframing Exercise	24
Directive Statements	25
Directive Statement Exercise	26
Principled Negotiation	27
Planning for Negotiation	28
Mutual Problem Statement	30
Introduction to Mediation	31
Power Imbalances	43
Quick Intervention	44
My Personal Action Plan	45

St. Stephen's Community House

St. Stephen's Community House is a community-based social service agency, serving the needs of Kensington Market and surrounding neighbourhoods in downtown West Toronto since 1974.

The Conflict Resolution Service (CRS) offers team-building, facilitation and mediation, and training services to people and organizations in conflict or acting to manage future conflict. We draw on over 20 year's practical experience in providing dispute resolution for people from diverse backgrounds in many different types of disputes. Improving communication and strengthening relationships is at the heart of our work.

Conflict Resolution Service, St. Stephen's Community House
91 Bellevue Ave., Toronto, ON. M5T 2N8
☎416-925-2103 📠416-925-2271
www.ststephenshouse.com

Facilitator Profiles

Kirsten Bowen-Willer, Med. (OISE, University of Toronto), has extensive dispute resolution skills in both community and organizational settings, including mediation, group conflict resolution processes, and facilitation skills. She has designed and delivered workshops in communication skills, conflict resolution, mediation, facilitation, negotiation and coaching to non-profit, private sector and government clients.

She has a background in Adult Education, Psychology and a Diploma in Peace and Conflict Studies. She was first trained as a community mediator in 1997, and received certification in Interpersonal Mediation and Advanced Interpersonal Mediation with St. Stephen's in 1999. She currently works in Organizational Development in the Health Care Sector.

Margaret Corion, B.A. (Carleton University), M.A. (University of Toronto), has a background in Criminology and, for the last 14 year, has worked for the provincial government.

Margaret has had training at *Stitt Feld Handy Houston* in both Introductory and Advanced Mediation. She has been a mediator at the CRS since 1995, where she mediates both interpersonal and organizational disputes as well as mediating in her own work at the Ontario Government. Margaret has extensive training in experience in anti-oppression and diversity issues and has and led numerous professional workshops in mediation and conflict resolution skills for non-profit and government agencies.

Supportive Feedback Techniques

➤ **First, let people know what they did well.**

When a person knows what works, they can do it again.

It builds a person's confidence to know that they've achieved some success, even if there's more to do.

➤ **Next, make observations about problems, and make suggestions for alternative approaches to try another time.**

Focus on the goals of the exercise, and the person's efforts to meet those goals.

➤ **Describe, don't judge what you observed.**

"You began speaking several times before I could complete my thought" is more useful than, "You were really rude."

➤ **Be specific rather than general.**

"I appreciated the way you asked a question and gave me plenty of time to think before I answered" is more useful than "You did a great job."

➤ **Direct your suggestions for change at behaviour the person can control.**

"I found it uncomfortable to talk while looking up at you -- maybe we could sit down so we're both on the same level" is more helpful than, "You're too tall."

➤ **End on a positive note.**

4. How did you react during each experience?

5. List your goals for this workshop. Focus on the skill(s) you would like to add or build upon. Be specific and describe where you might apply them.

Goal:

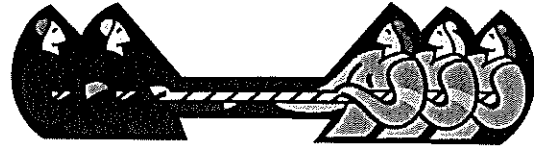
Application:

Example:

To learn how to constructively diffuse anger without getting triggered emotionally.

With a co-worker, when dealing with verbal insults, especially in public spaces.

Understanding People and Conflict



Conflict occurs when individuals or groups are not achieving what they need or want and are seeking their own self-interest. Sometimes, the individuals involved are not aware of the need and unconsciously start to act out. Other times, the individuals are very aware of what they want and actively work at achieving the goal.

Conflict arises when individual goals or interests:

- are perceived to be incompatible;
- prevent all or some of the people from satisfying their needs; and
- are accompanied by strong emotions

A Bit About Conflict:

- Conflict is inevitable;
- Conflict is an opportunity for dialogue and understanding;
- Conflict develops because we are dealing with people's lives, jobs, pride, self-concept, ego and sense of mission or purpose;
- Early indicators of conflict can be recognized;
- There are strategies for resolution that are available and DO work;
- Although inevitable, conflict can be minimized, diverted and/or resolved.

Dynamics of Conflict Escalation

When people hear another person's complaints or demands, it makes them fear that their needs will not be met.

People then feel they must protect their needs by:

Defending:

- their behaviour ("I'm not doing anything wrong.") and
- their character ("I'm being reasonable.")

and by **Attacking** with:

- criticism of the other's behaviour ("You've broken the rules.");
- criticism of the other's character ("You're being unreasonable.");
- threats ("I'll speak to your manager if...");
- insults ("You're incompetent.");
- minimizing the other's complaint ("What are you getting so upset about?").

When the other hears the attacks, they respond similarly by defending themselves and attacking the other.

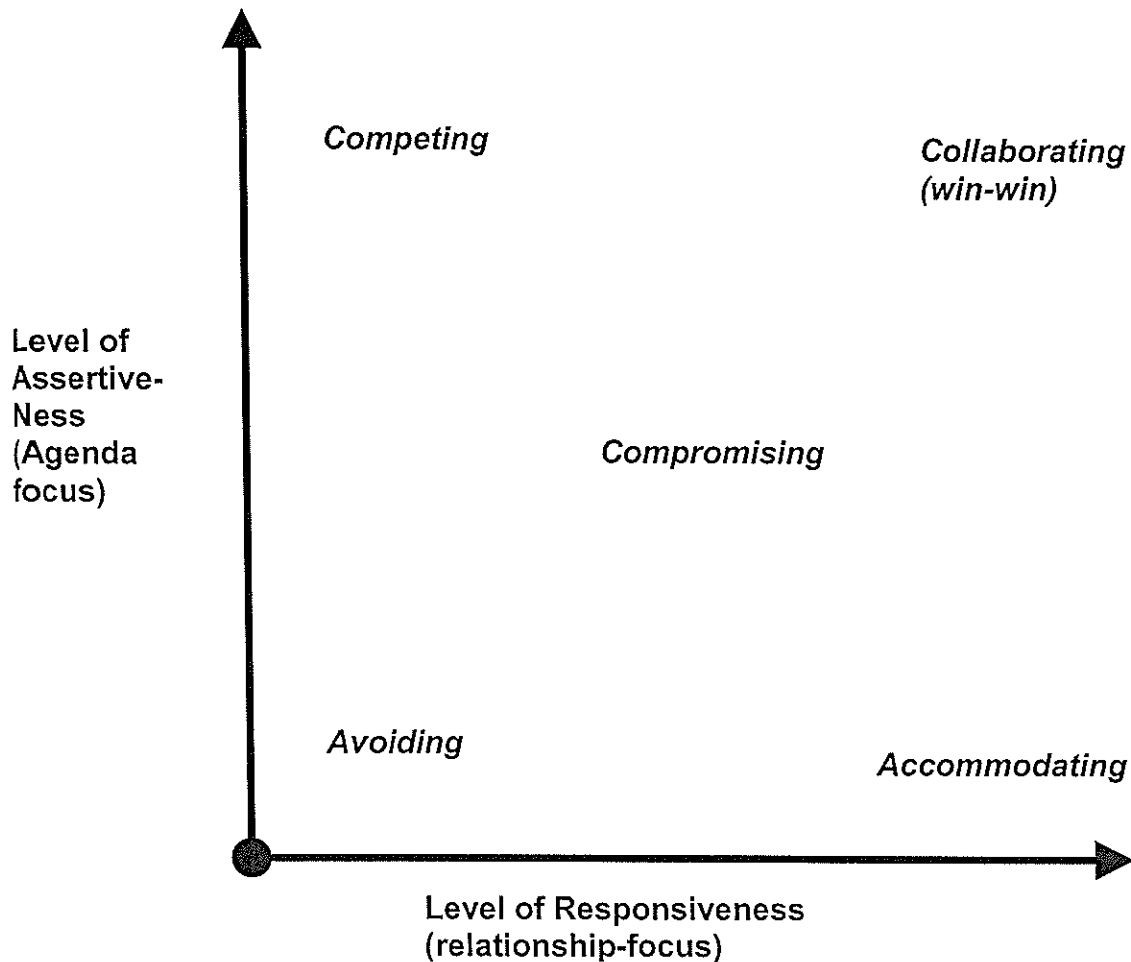
This escalates the conflicts as both people shift their attention away from the problem and focus on defending themselves and attacking the other.

The effects of conflict escalation include:

- distrust;
- communication breakdown as both avoid hurtful interactions;
- misunderstandings that result from unchecked assumptions;
- each person's sense of legitimacy is undermined by the other's criticisms;
- problem solving is minimal as each spends energy on defending themselves and attacking the other.

If one or both people can prevent the cycle of conflict escalation, it will be possible to build a cooperative problem-solving climate. It increases the chance of reaching a resolution that will meet everyone's needs.

Styles in Responding to Conflict



Avoiding (or Reflecting)- Tend to pause, consider carefully both agenda and relationship. Or may just avoid the situation completely. *"It's not a big deal. Let's talk about it later"*

Compromising- Tend to balance relationship and agenda and focus on efficient decision making. *"I'll meet you halfway. Let's make a deal"*

Collaborating- Tend to balance relationship and agenda and stretch for the best possible solution. *"Let's work this out. I'll explain where I'm coming from and I want to hear what's important to you."*

Accommodating- Relationships are most important. All else is secondary. *"Sure, I'm flexible. Whatever you want is fine with me."*

Competing- My agenda is most important. All else is secondary. *"I've made my decision. We're doing it my way."*

Approaches to Problem-Solving

Power-based approach: using force to make someone to do something they would not otherwise do. Power-based approaches include the use of threats, manipulation, physical force, intimidation, public pressure, wars, strikes, acts of civil disobedience, etc

Rights-based approach: a general standard, a rule, a principle, a policy or a process. You ask, "What's the rule?" that applies to everyone and apply it in that instance. These standards may be explicit and codified in laws, policy manuals, contracts, religious moral codes, etc., or may be implicit in given cultures or contexts.

Interest-based approach: seeks to uncover and meet the needs of both parties. You ask, "What needs or underlying interests are you trying to address by taking a certain position. What is important to you about having what you're asking for?" Interest-based approaches seek to generate new ways of meeting as many needs as possible.

All of these approaches have value. Power-based and rights-based procedures can sometimes accomplish what interest based-approaches cannot. The problem is that people often resort to power-based and rights-based procedures when an interest-based approach might have generated a more creative, more satisfying solution for all.

*Adapted from Ury, Brett and Goldberg., Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict. The Program on Negotiation at Harvard Law School, 1993.

Communication Blockers

Advising	<i>"What you should do is..."</i>
Analysing/Diagnosing	<i>"you're only worried about this because you are an uptight kind of person"</i>
Blaming	<i>"This would never have happened if you hadn't..."</i> <i>'you always' 'you never'</i>
Cross-Examining	<i>Fast paced, close-ended questions eg 'what did you do that for' but not really asking</i>
Diverting	<i>"What I did is not the issue. What about when you...?"</i>
Judging/Evaluating	<i>"What YOU're doing wrong is..."</i> <i>"The only good thing about this is..."</i>
Non-Verbal Blockers	<i>Negative body language: crossed arms, frowning</i> <i>Negative noises: huffing, sighing, tsking</i> <i>Distracting movements: pacing, tapping, leg-shaking</i>
Reassuring/Minimizing	<i>"Don't worry, it's no big deal."</i>
Denial of Feelings	<i>'You shouldn't feel like that'</i>
'BUT' instead of 'AND'	<i>'I know that's what you think, BUT'</i>
Defense of the other	<i>'I know why she acts like that, it's because, and she's just trying to...'</i>
Philosophical	<i>'There's nothing you can do about this anyway, it'll never change'</i>

Listening for Interests



Conflict can occur when two or more parties perceive that their goals are incompatible and that their needs are not being met by each other. This win-lose approach causes people to become fixed in their **positions** (inflexible, pre-determined solutions to a problem).



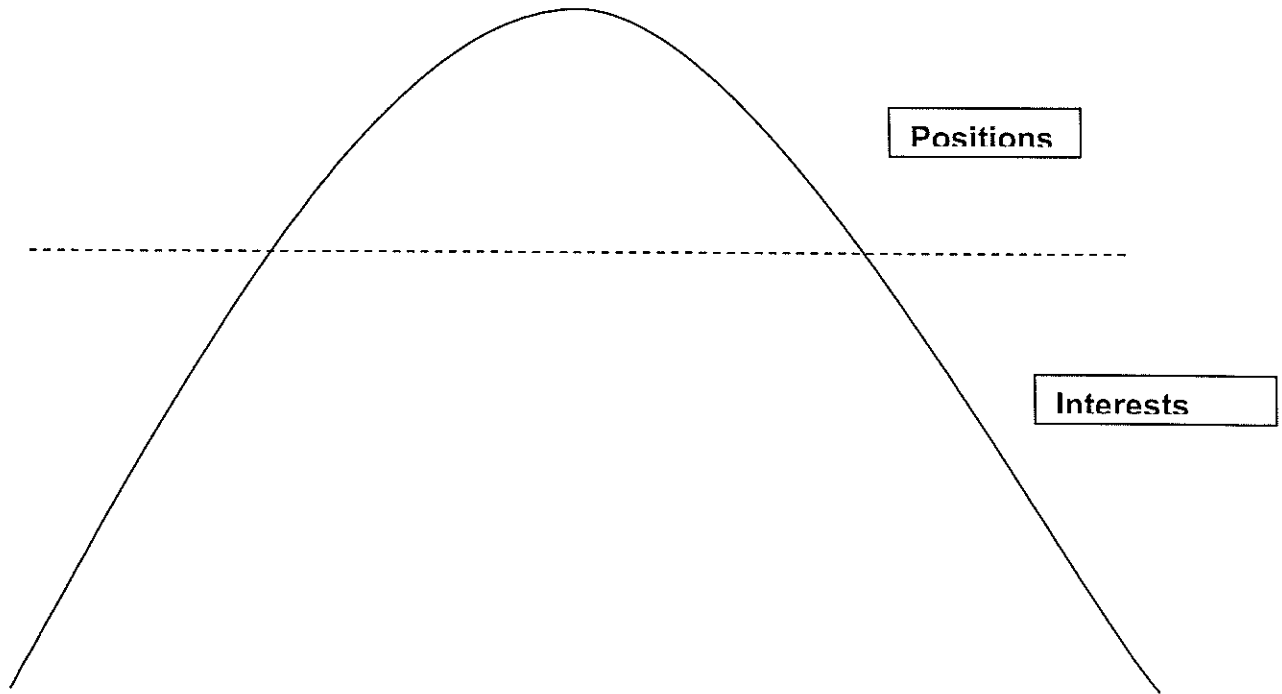
Listening for **interests**, or the underlying reasons *why* someone takes a particular position, helps to discover more information about what is important to a person. Active listening is one way of helping parties to explore their interests, which allows them to move away from inflexible positions.

Interests: The feelings, beliefs, needs and values that cause particular actions or reactions.

When two parties come to a mutual understanding about each other's interests, they can often generate multiple solutions that allow them each to have their needs met without needing to compete or compromise. This approach is called win-win, or interest-based, problem-solving.

Point to Ponder:

Can you think of a conflict situation that may have had a different outcome if you had been able to uncover and listen for his/her underlying interests? How might the outcome have been different?



Different types of Interests (Moore)

What is the most important for each person

Substantive (result) "What"	Psychological (emotional)	Procedural (process) "How"
<ul style="list-style-type: none"> · Things · Resources · Time · Money · Food 	<ul style="list-style-type: none"> · Respect · Having a voice · Feeling included · Saving face · Fairness 	<ul style="list-style-type: none"> · When · How fair, long · How transparent · Cheap, quick, Private · Acceptable mediator

Active Listening Techniques
(Techniques that Help the Other Person Talk About Interests)

	Technique	Purpose	How to Do This
Ways to Invite Information	Encouraging	<ol style="list-style-type: none"> 1. To convey interest 2. To encourage the other person to keep talking 	<ul style="list-style-type: none"> • Minimize distractions • Be aware of body language
	Clarifying Questions <i>"Can you say more about that?"</i> <i>"What happens when....?"</i> <i>"What is it that she's doing that's a problem?"</i> <i>"Can you give me an example?"</i> <i>"What were things like before that event?"</i>	<ol style="list-style-type: none"> 1. To clarify what is said 2. To get more information 3. To help the speaker be concrete & specific 	<ul style="list-style-type: none"> • Ask open-ended questions
Ways to Acknowledge Information	Restating <i>"So you've been trying to get this problem resolved for several weeks. Is that right?"</i> <i>"So you want the tasks of the committee to be shared more evenly among the group. Is that right?"</i> <i>"So you find the process too complicated. Is that right?"</i>	<ol style="list-style-type: none"> 1. To show that you're listening and understand 2. To check your meaning and interpretation 	<ul style="list-style-type: none"> • Put the speaker's key points in your own words
	Reflecting Feelings <i>"You seem upset about..."</i> <i>"You're really frustrated at the length of time this process is taking."</i> <i>"It sounds as if you felt humiliated when you were criticized in front of the group. Is that right?"</i>	<ol style="list-style-type: none"> 1. To show that you understand how the other person feels 2. To help the other person consider his/her own feelings after hearing them expressed by someone else 	<ul style="list-style-type: none"> • Identify the speaker's emotions
	Validating <i>"So the respect of your group members is very important to you. Is that right?" (value)</i> <i>"You raised your voice to get his attention. Is that right?" (positive intention)</i> <i>"So you've done everything you can think of to resolve this, is that right?" (positive effort)</i>	<ol style="list-style-type: none"> 1. To acknowledge the speaker's values and how they affect the conflict 	<ul style="list-style-type: none"> • Identify the speaker's values, positive intentions or positive efforts

Different ways of Asking Questions

Close-ended Questions

A closed-ended question invites a “yes” or a “no” answer.

Instead of a close-ended question...

Instead of...

1. “Did you resent that?”
2. “After you found the note stuck to your computer, did you tell your supervisor?”
3. You know, sometimes people get carried away and don’t really mean everything they say. Do you think she really meant it that way?”
4. Do you think maybe you overreacted?”

Close-ended questions:

- Shut down communication.
- Make people feel defensive, cross-examined, suspicious.
- Fill a conversation with the *questioner’s* ideas, hypotheses, concerns.

Open-ended Questions

An open-ended question invites the speaker to say more about a given topic without limiting the kind of answer.

Use an open-ended question!

Use...

- “How did that affect you?”
- “What did you do next?”
“What happened next?”
- “What did you make of that?”
“What did you think was going on?”
- “You mentioned earlier that ‘maybe you raised your voice.’ Can you say more about that?”

Open-ended questions:

- Draws a speaker out.
- Make people feel heard and respected.
- Help a speaker become specific.
- Fill a conversation with the speaker’s ideas, hypotheses, concerns.

Asking Questions: Areas to Consider

History of the Relationship

- Key incident(s)
- Evolution of escalation
- History of what went well in the relationship

Impact of events/actions

- What effect the other person's behaviour has had on them
- How they feel or felt in key situations

Specific Details

- Size of lab, how often they meet with the professor, when did the discussion take place etc.

Positive Intentions

- Examples of positive efforts they have made
- What they were thinking in key situations (how they interpreted what was going on)

Interests/Needs/Values

- What are some of their concerns about...
- What is important to them about...
- What would they like to be different about...
- Distinguish between position and needs

Method for Raising a Concern (Stating Your Own Needs)

Purpose: To approach someone about a problem in a way that does not make it worse, and makes them more likely to move to problem-solving.

Method: Talk about the effect of the person's behaviour or the situation rather than criticizing, judging or threatening the person.

How to Approach

- Organize your thoughts
- Separate the person from the problem
- Get emotionally ready

Raising the issue

- **Describe the specific problem behaviour (describe don't judge)**
"It was a problem for me when you said you'd be at the meeting and then didn't show up."
- **Describe impact on you/them/the organization**
"I had to give the report on our project, and I wasn't prepared, so it made me look disorganized and incompetent."
- **Requests for further discussions or more information**
"Could we discuss this?"
OR
- **State your preference for the future**
"In the future, I would prefer it if you let me know in advance if you aren't coming, so I can prepare myself for the meeting."
- **Talk about and identify your feelings (optional)**
"...which will make this process less upsetting for me."

There are many ways to convey these main elements. Below are possible formats.

I feel _____	(state feelings/emotion)
when _____	(specify problem behaviour)
because _____	(describe impact on me)
And I'd prefer _____	(state preference for future)

Example:

"I felt really angry when you said you'd be at the meeting and then you didn't show up. I had to give the report on our project, and I wasn't prepared, so it made me look disorganized and incompetent. In the future I would prefer it if you let me know in advance if you aren't coming, so I can prepare myself for the meeting."

Another possible format:

There's something I'd like to talk to you about.

It's about what happens _____ (specify area of concern/behaviour in a neutral way)
_____. (describe impact.)

Because of this I feel _____. (state feeling or emotion) [optional]

Could we discuss this? Or I was wondering if we could talk about this together? Or I'd like to work out a solution with you. Or What are your thoughts about it? (Or invite further information in another way).

Raising someone else's concern:

There's something I'd like to talk to you about.

It's about what happens _____ (specify area of concern/behaviour in a neutral way)
_____. (describe impact.)

Because of this they feel _____. (state feeling or emotion) [optional]

Could we discuss this? Or I was wondering if we could talk about this together? Or I'd like to work out a solution with you. Or What are your thoughts about it? (Or invite further information in another way).

Additional Examples:

Raising Your Concern

1. "I feel frustrated when you start talking before I've finished what I'm trying to say. I lose my train of thought and it makes me worry that you might misunderstand what I'm trying to get across. This makes it difficult to work things out with you. What do you think?"
2. "There's something I'd like to talk to you about. It's what happens when you comment on my work in front of other people in the office. When your comments are negative, it makes it harder for me to supervise them effectively afterwards. I'd really like to work out a different system with you. Could we discuss this now?"

Examples: Raising others Concern

1. Can I talk to you? I've been approached by Jenny about booking space in the meeting room. It's about what happened yesterday, when you were meeting in the room during the time Jenny had booked it. She is concerned because her meeting involved people from partner organizations and she had to find alternative space while people were waiting. She felt this reflected badly on our organization because the meeting started late and it looked disorganized and unprofessional. What happened in this situation?
2. Can I talk to you about what happened yesterday at the meeting with Sarah? "It's upsetting for Sarah to have this unresolved issue between the two of you. It is a problem for her that the two of you aren't speaking, since you need to communicate while working on research together. Can we set up a time where we can meet to resolve this before it becomes more problematic?"

Respond don't react

- Avoid becoming defensive
 - Remember it is natural for the other person to escalate
- Use Active Listening
 - If they talk about their reasons or justify their behaviour, listen to their concerns and ask more about it.

Move to Problem Solving

Invite the Other Person's Ideas

- What do you suggest?
- What do you think is a fair solution?
- Continue to focus on the problem if the other person stonewalls or makes attacks
- Offer the other person a choice

Use Preference Statements

Communicating clearly your preferences or desires rather than stating them as demands or forcing other to guess

- "My preference is..."
- "If it were just me..."
- "What I'd like is..."
- "It would be helpful to me if..."

Use Purpose Statements

Making known your intentions so others do not unknowingly operate at cross purposes. By supplying information about your aims or policies and procedures you're required to follow. A purpose statement enables others to understand what you are about and, if possible, help achieve your purpose without needless misunderstanding.

- "What I'm trying to accomplish is..."
- "I'm hoping to..."
- "I'm in the process of..."
- "My intentions were to..."

Reducing or Avoiding Hostility When Giving Information

1. Use active listening and reframing to defuse hostility and calm the client in preparation for giving them information.

A person who is calm can listen better. When a person feels that you are taking them seriously, they are more willing to pay attention to what you say.

2. When a rule/law/regulation/policy is involved, let the client know about it.

This can help make it clear that you are not the source of the client's disappointment or difficulty, the rule is. Then they are less likely to be angry at you personally, especially if you continue to acknowledge their concerns and express your regret or your wish that you could have helped. *Examples:*

The rule that applies in this situation is That means that only people who I'm sorry that you won't be able to At this point you could either . . . or

The policy is That means that you need to I wish that we could have helped you with that. Perhaps you would like to consider. . . .

The rule is I know this puts you in a difficult situation, but unfortunately that's the rule. I wish we could have done more. But what we can do is

3. Explain the reason for the rule/law/regulation/policy.

Don't assume that the client understands what the rule is about or why it is there. Many rules seem arbitrary or senseless when the reason is not clear. Understanding the purpose for a rule may help reduce resentment.

4. Speak in positive terms when possible.

People will tend to get angry less if you can speak to them in positive terms more often. Consider rephrasing your sentences to use positive words. *Examples:*

Use positive phrases

*Client: Can I do X?
Staff: Yes, after Y happens.*

Staff: It works well when . . .

Avoid negative phrases

*Client: Can I do X?
Staff: No, not until Y happens.*

Staff: That's not a good idea.

5. Only offer to do what you can really follow through on.

Think carefully about what you offer to avoid raising hopes that may be disappointed. Consider being cautious in your offers. *Examples:*

More cautious offer

I'll check and see if there's anything else that would help you here.

Less cautious offer

There's a good chance that . . . I'll let you know.

6. At the end, summarize what you and the client have discussed together.

This can allow you to reduce and avoid hostility by:

- a) acknowledging the client's concerns,
- b) reminding the client of what you have done to assist them,
- c) reminding the client what you are planning to do, if anything,
- d) reminding the client what they must now do, if anything.

7. Keep things simple.

Use your judgment. If you overdo these techniques it can sound patronizing.

- a) Speak clearly and slowly. Pauses can give the client time to understand what you have said.
- b) Use simple words.
- c) Be redundant. Say the same idea twice using different words or a different approach.

Conflict Scenario Design Worksheet

Choose a conflict scenario that has or is likely to occur within your work environment. Your group's task is to put together a demonstration of someone raising a concern in a way that prevents or manages conflict escalation.

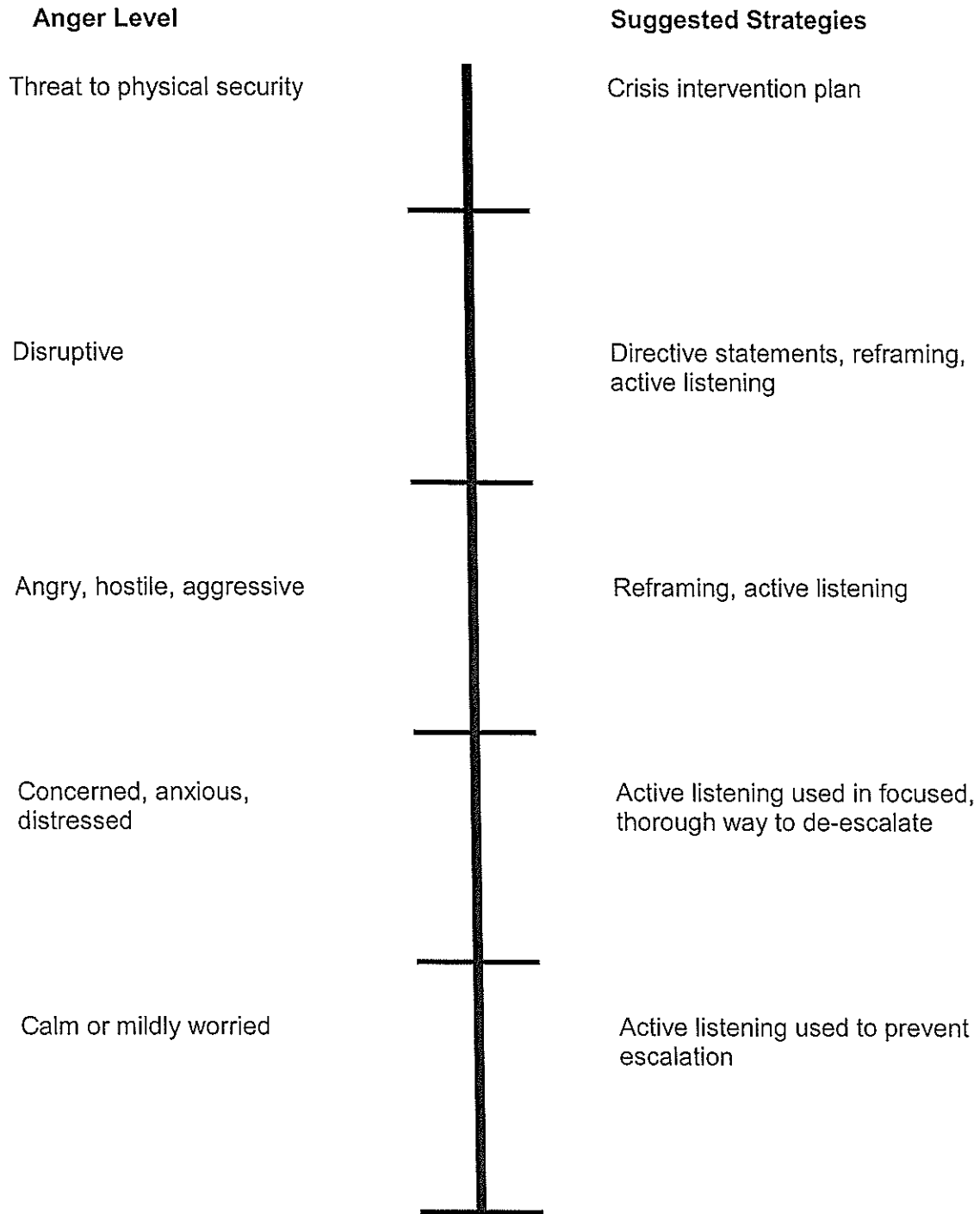
With your group, determine how you would like to act out the scenario. Identify what the conflict is about, as well as what key communication and conflict resolution skills the role-play demonstrates. It is not necessary for the entire conflict to be resolved by the end of the role-play. The goal is to de-escalate the conflict and get parties ready to work on problem-solving.

Guidelines:

- Conflict occurs within the work context
- Change names to protect real identities
- Think about what level of anger is being demonstrated.
- No physical contact
- At least one of the parties in conflict must demonstrate effective communication and conflict resolution skills
- Role-play should be at approximately 5 minutes and no longer than 10 minutes

Identifying the Conflict	Scenario
Positions:	Player(s): <hr/> <hr/>
Underlying Interests:	Description of conflict: <i>(e.g., What specific needs, beliefs or values are in conflict? What fears is each party experiencing? What triggers the conflict? How does the conflict escalate?)</i>
Emotions:	Communication/Conflict Resolution Skill(s):

Strategies for Different Stages of Escalating Anger ("Anger Level Thermometer")



Reframing and Preventing Escalation

Why People in Conflicts Positively and Negatively Position

People who are in conflict are particularly disposed to positively and negatively positioning each other when they describe their conflicts. This is because many of our traditional contexts of conflict resolution have decided what happens on the basis of evaluating *which* party is good/right and which party is bad/wrong. For example, if a brother and sister are fighting over a ball, the one who “stole” it from the other is not typically the one who gets the ball. The one who hit the other one on the head, (the “violent” one) is not typically the one who gets the ball. Or in court, the one who is shown to have violated the law is usually punished and the one who was the innocent victim of the other’s behaviour is compensated. Which party is considered in violation and which one an innocent victim depends on whose story is adopted- which accounts for a party’s keenly felt need to have the details of *his or her* conflict story understood and believed. In a society where judgment and evaluation have been the basis of deciding who is rewarded (whose needs get satisfied in some way), people have developed sophisticated skills at showing that they are good and the others are bad in situations where their needs are threatened in some way.

Frames and Reframing

What is a frame? In general communication theory, there is a basic axiom that a signal only has meaning in terms of the frame or context in which it appears. The sound of a squeaky shoe on a busy sidewalk has little meaning; the same sound outside your window when you are alone in bed means something else altogether. You may have a thief sneaking around.

Evaluative Frame

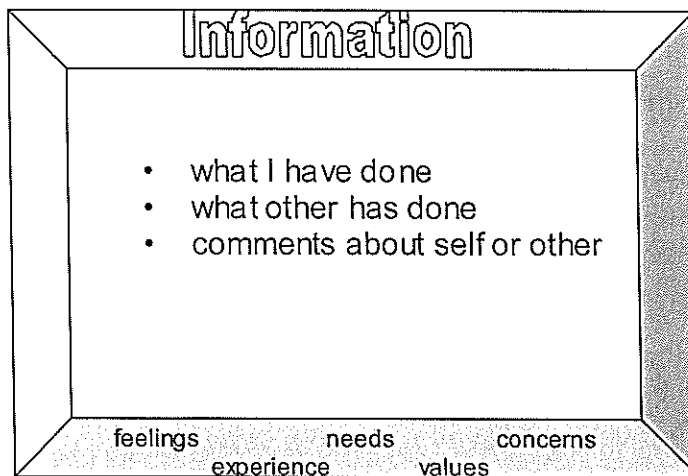
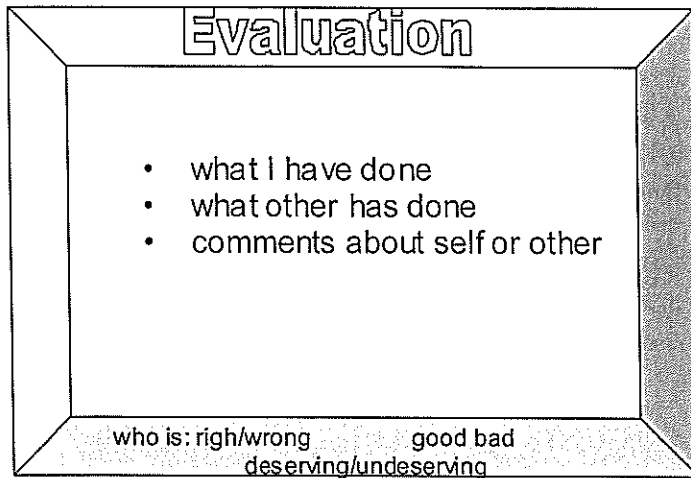
Now as we have already mentioned, many of us have experience conflict situations where what is said about us and what we say about ourselves is used as the basis of an evaluation of who is right and who is wrong. What we have done or not done in a conflict situation has an evaluative frame put around it. We assume that the significance of what we say about ourselves and what people see has to do with how it reflects on our goodness or rightness in a situation.

Many disputants who are communicating with each other are communicating within this evaluative frame. They hear the others’ comments as critical and judgmental and while they may argue with the legitimacy of the other’s claims, they often remain within the evaluative frame. For example, if Helen accuses Trudy of not taking the garbage out for the third week in a row, (implying that Trudy is a bad house mate), Trudy may argue with that evaluation, and refer to how busy she is and how often she has covered for Helen when Helen was busy (implying that she is a good housemate and that it is Helen who is the bad housemate) but both Helen and Trudy have communicated and heard their comments about each other as an indication of who is good and who is bad. They have both remained within an evaluative frame.

Reframing

A key contribution that a mediator makes to disputants’ communication pattern is to help them remove the evaluative frame from their comments about each other. This is what we

call **reframing**: hearing a comment that was originally made in one frame, and responding in a way that puts a different frame around it. In general, we want to remove the evaluation frame that is around the disputants' comments about themselves and each other and frame those comments as information about their experience needs and values.



Examples of Reframing

(A) Disputant Comments Negatively (passes judgement) on Other Disputant

- Step 1: Inflammatory Comment:
Disputant says: "He's so inconsiderate. He never asks me about how I am feeling."
- Step 2: Information which may be contained in that statement:
Disputant feels upset
Disputant values being asked how s/he is feeling
Disputant believes asking how one is feeling is a sign of consideration
- Step 3: Possible Reframes:
"It sounds as though Joe's communication style has been upsetting for you, is that right? Can you say more about what he has done or not done that has been difficult for you?"
" So it is important to you that X ask you how you are feeling, is that right?"
" It sounds as though for you, one of the things that being considerate involves is asking how someone is feeling, is that right? Can you give other examples of what "being considerate" means to you?"

(B) Disputant Positions Self Favourably (at the Expense of the Other Disputant)

- Step 1: Inflammatory Comment:
In a dispute between a manager and the receptionist in which the manager has criticized the receptionist for misdirecting calls and being rude on the phone, the manager says:
" When I was a receptionist, I was able to answer 20 lines and never misdirected a call! I was always efficient AND polite."
- Step 2: You may want to direct the discussion away from comparisons and judgments and focus instead on values and future needs. The Manager values providing efficient and polite service.
- Step 3: It sounds as though you took pride in being efficient and polite when you were a receptionist. Can you give some examples of what efficient and polite reception work looks like to you? (After manager lists these behaviours, acknowledge the kinds of needs that those behaviours are designed to address e.g. so you need callers to receive a good impression of the company in their first contact, etc).

Reframing Exercise

1. Write a hostile comment at the top of the flip chart.

Be clear in your mind about the context of the comment.

2. Identify and write on flip chart information about the speaker's concerns, needs, feelings, values and experience contained in the hostile comment.

You are looking for how it seems from the speaker's point of view.

3. Write one or more reframing comments or questions.
4. Choose a representative to explain your reframing process to the whole group.
5. If you finish before time is called, go on to reframe another hostile comment.

Steps to Reframe a Hostile Comment

1. Realize that the speaker's anger level is increasing.

Clues: sound of their voice; words used; body language; how you are feeling.

2. Find the embedded information about the speaker.

Figure out what information about the speaker's concerns, needs, values, feelings, or experience is contained in the hostile comment.

Context can help identify this information or can help you identify information you would like to obtain from the speaker.

3. Respond to the speaker's concerns and ignore the evaluative part of their comment.

Develop a reframing comment or question to help the speaker to focus on their own concerns, needs, values, feelings, or experience, and which makes no reference to the hostile part of the comment.

Directive Statements

“When you (describe behaviour)...I (describe impact)...and I need (request behaviour)...or else (describe consequence)...Can you do that (get agreement)?”

- 1. Provide neutral description of problematic behaviour**
 - “When you say things like....”
 - “When you lean across my desk”
 - “When you raise your voice.”
 - “When you make comments about my background.”
- 2. Describe impact of their behaviour on you or the organization**
 - “When you interrupt me, I can’t explain the policy”
 - “When you talk at this level, I find it hard to listen to what you’re saying”
 - “When you lean across my desk, I feel uncomfortable and it makes it hard for me to work with you.”
- 3. Request a different behaviour**
 - “For me to help you, you need to step back a little.”
 - “If we’re going to work together, you need to sit down.”
 - “If we’re going to talk about this, you need to keep your voice down.”
- 4. Give them the option to calm down**
 - “If you keep making comments about my background, you’ll have to wait outside until you calm down.”
 - “If you continue yelling, we’ll have to postpone this discussion till later.”
- 5. Get agreement for them to change their behaviour**
 - “Could you do that? Thanks...”
 - “Could you move back so we could do that? Great...”
 - “Would you be willing to keep your voice down? Okay...”

Examples of Directive Statements that use Active Listening:

1. You’re very worried about something that was delayed and you really want some action. I can’t help you unless you stop swearing at me. Could you do that?
2. “You’re furious about what happened, I need you to lower your voice a bit in order to help me focus on what you are saying.”

Principled Negotiation

PROBLEM: *Positional Bargaining: Which Game Should You Play?*

SOLUTION: *Change the Game – Negotiate on the Merits*

SOFT	HARD	PRINCIPLED
Participants are friends	Participants are adversaries.	Participants are problem-solvers.
The goal is agreement.	The goal is victory.	The goal is a wise outcome reached efficiently and amicably.
Make concessions to cultivate the friendship.	Demand concessions as a condition of the relationship.	Separate the people from the problem.
Be soft on the people and the problem.	Be hard on the people and the problem.	Be soft on the people, hard on the problem.
Trust others.	Distrust others.	Proceed independent of trust.
Change your position easily.	Dig in to your position.	Focus on interests, not positions.
Make offers	Make threats	Explore interests
Disclose your bottom line.	Mislead as to your bottom line.	Avoid having a bottom line.
Accept one-sided losses to reach agreement.	Demand one-sided gains as the price of agreement.	Develop options for mutual gain.
Search for the single answer: the one they will accept.	Search for the single answer: the one <i>you</i> will accept.	Develop multiple options to choose from; decide later.
Insist on agreement.	Insist on <i>your</i> position.	Insist on using objective criteria.
Try to avoid a contest of will.	Try to win a contest of will.	Try to reach a result based on standards independent of will.
Yield to pressure.	Apply pressure.	Reason and be open to reason; yield to principle, not pressure.

Adapted from: Getting to Yes: Negotiating Agreement Without Giving In by Roger Fisher and William Ury, 1981, Penguin Books.

Planning for Negotiation

This form can help you in your private planning before a negotiation. Be prepared to take into account any new information you may learn during the negotiation.

1. Generating Interests:

These are the underlying needs, not the demands or positions taken. It is important to rank your interests so you don't end up trading off an important interest for a less important one.

Try to understand the other side's interests so that you can create options and proposals that will appeal to them.

2. Generating Options

OPTIONS: An option is a possible agreement or part of an agreement. Try to expand the "pie" so that more interests of both sides can be met. Try to be creative in generating ideas; then evaluate your ideas and decide which ones may be workable.

Things to consider when generating options:

Standards: A standard or process that can guide your resolution. Look for outside standards or criteria so that the other side won't feel pressured to "give in", but can feel that it is fair to create the resolution by reference to an acceptable standard or process. Standards can be based on previous experience, law or any other standard that is acceptable to both sides.

What are the alternatives: Be aware of what your best alternative is. Be aware of what the cost may be in time, trouble and money if you choose to turn to your best alternative. Try to understand what the other side's alternatives are in order to understand what they may be looking for as they negotiate, and also to be prepared for what effect their various alternatives may have on you.

3. Planning the meeting

Questions to consider:

- a) Who are you meeting with? Do you have an ongoing relationship?
- b) In what order do you proceed? Is there information you need to give first or do you need to initially get some information?
- c) What issues do you address first?
- d) Are there new guidelines you need to take into consideration
- e) Are you speaking on behalf of someone else or for yourself?

Private Negotiation Planning Sheet

<p>INTERESTS Mine</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>INTERESTS Theirs</p> <p>1.</p> <p>2.</p> <p>3.</p>
<p>OPTIONS</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>4.</p> <p>5.</p> <p>6.</p>
<p>STANDARDS</p> <p>1.</p> <p>2.</p> <p>3.</p>	<p>4.</p> <p>5.</p> <p>6.</p>
<p>BATNA Mine</p>	<p>BATNA Theirs</p>

Mutual Problem Statement.

One challenge in problem solving is to keep people focusing on interests rather than reverting to positions.

One useful tool to get things started is the Mutual Problem Statement. A formula for the statement goes like this:

“if we can find a way to
enable X to get to a, b and c,
and at the same time
enable Y to get to d, e and f,
and if p, d, and q(their mutual interests) are also met,
would you be satisfied that the problem is resolved?”

Example:

“If we can find a way to
enable Paul to
➤ maintain final decision-making and to
➤ feel that professional standards are being maintained,
and at the same time
enable Susan to
➤ feel her ideas are being respected and to
➤ have her input be considered in decision-making,
and if communication is improved so that both of you
➤ feel you can count on knowing what is going on and that you
➤ hear about problems directly from each other,
will you feel that the problem is resolved?”

The facilitator can engage the parties in constructing this statement, either verbally or on a flip chart. When the parties are satisfied that their interests have been clearly stated in this way, then brainstorming can be initiated about how to solve what is now their mutual problem.

The Mediation Session: An Overview

Opening	
Goal: <i>Each disputant is willing to participate.</i>	<ul style="list-style-type: none"> ➤ Welcome. ➤ Explain the process and confidentiality offered. ➤ Explain the ground rules and get agreement to them. ➤ Confirm time. Answer questions as needed.
Phase 1	
Goal: <i>Each disputant feels the mediator understands their concerns.</i>	<ul style="list-style-type: none"> ➤ Ask one disputant to tell how they see the situation. ➤ Ask the other disputant to tell how they see the situation. ➤ Use active listening to help each disputant say what they need to say and to make sure each disputant feels heard by the mediators. ➤ Use active listening to acknowledge each disputant's concerns often ➤ Give each disputant many chances to speak. ➤ At the end summarize the concerns of each disputant separately. ➤ If disputant adds to the summary, acknowledge those concerns, too.
BREAK	<i>In private, mediators make plans for Phase 2 disputants take a break.</i>
Phase 2	
Goal: <i>Each disputant feels the other disputant understands what is important to him/her.</i>	<ul style="list-style-type: none"> ➤ In order to begin discussion between the disputants, ask a question to enable one disputant to speak about one of their concerns. Check whether first disputant feels understood by other disputant ➤ To begin a similar discussion for the second disputant, after first disputant feels understood on that concern, ask a question to enable the second disputant to speak about one of their concerns. Check whether second disputant feels understood by the first disputant. ➤ Repeat process, alternating between disputants, until all concerns have been covered. ➤ After understanding is reached, check each disputant's readiness to work on a resolution.
Phase 3	
Goal: <i>A clear agreement that resolves the conflict for each disputant.</i>	<ul style="list-style-type: none"> ➤ List the underlying interests for each disputant. ➤ Encourage disputants to think of many possible alternatives Help disputants discuss specific points of agreement. ➤ Write down agreement. ➤ Check accuracy and have disputants sign the agreement.
Closing	
Goal: <i>sense of accomplishment</i>	<ul style="list-style-type: none"> ➤ Acknowledge the work and process used for resolving the conflict. or for achieving progress in understanding

Goals and Techniques Phase by Phase

Opening

1. *Goal: Each disputant is willing to participate.*

➤ *Mediator needs to:*

- Create a positive and safe environment.
- Clarify purpose, phases and expectations of the process, including ground rules.
- Develop trust in the mediator and the process.

➤ *How you know when you're finished:*

- When disputants have no further questions to ask the mediator.

2. *Process*

- Welcome and description of this part of the mediation.
- See Sample Opening (next page).

3. *Techniques*

- Make sure that room is set up for the mediation, with access to washrooms and any amenities (i.e., water, coffee, snacks, etc).
- Greet each disputant and make them feel comfortable by making small talk, offering them some water, etc.
- Make eye contact with both parties, and try to address each party equally.
- Acknowledge how difficult it is for parties to come together and congratulate them on taking this step.
- Observe body language for clues to disputants' emotional state and check in if necessary
- Make sure you have the decision-makers in the room.
- Welcome any questions and concerns.

Sample Opening for a Mediation

Introduction and greetings arrive. Validation	I'd like to welcome you all here today. We know it can be difficult to come to a meeting like this. Coming here today reflects a willingness on each of your part to work together towards a resolution and it is a very positive step.
Mediators' Role	I want to start by saying a few things about what we're going to do today. We're not the judges. We're not here to assign blame or to decide anything <u>for</u> you. You're the ones who will decide what kind of resolution is acceptable. We can't solve the problem for you, but we can help you work together to reach a resolution.
Confidentiality	Everything we say here today is completely confidential. If you see us writing a few notes, it's just to help us keep track of what you're saying. We only keep the intake information and any agreement you may come up with. We don't keep the other notes.
Process & Break	We're going to follow a simple process. First, we'll ask both of you to tell us what your concerns are. After a short break, we'll ask you to talk to each other about the situation. Finally, we'll talk about possible ways to reach a resolution.
Ground Rules	In order for this process to work, we have two ground rules. The first is that we ask you not to interrupt each other, even if you disagree or don't like what's being said. Everyone will have the opportunity to speak. The second rule is that we will all treat each other with respect. Do you agree to these ground rules? <i>(Make sure to at least get a nod from each person.)</i>
Confirm Time	We understand that you've both set aside three hours for this mediation. Is this still okay? <i>(Make sure to get at least a nod from each person.)</i>
Questions	Do you have any questions?
Invitation to Speak	<i>(Disputant A)</i> , I'd like to ask you to start by telling us how you see the situation. And then we'll be asking you, <i>(Disputant B)</i> , to do the same. So, <i>(Disputant A)</i> , could you tell us what brought you here today?

Phase 1

1. **Goal: Each disputant feels the mediator understands that disputant's concerns.**

➤ **Mediator needs to:**

- Help disputants tell what is important to them.
- Acknowledge each disputant's experiences, concerns, needs and values.

➤ **How you know when you're finished:**

- Observe emotional level of each disputant through words, tone and body language: they should be fairly calm.
- When you think you may be finished, try giving a summary of each disputant's concerns to that disputant and ask if it's complete. If each disputant is satisfied with their summary, move on.
- Check with co-mediator: "Do you feel we're ready to move on?"

2. **Process**

- Ask disputant A an open-ended question to begin (e.g., "Can you tell us what brought you here today?").
- Restate what you have heard A say, making sure that you capture his/her feelings, experience, concerns, fears, etc., as well as the relevant details.
- Ask disputant B the same open-ended question that you asked A.
- Restate what you have heard B say.
- Ask A to elaborate on a concern/need/experience that they have already mentioned.
- Restate and ask follow-up questions.
- Do the same for B.
- Alternate between disputants until each one feels you have captured all the necessary information about their own experience.
- Summarize separately for each disputant, checking to make sure that nothing has been left out.
- Inform disputants that, after a short break, you will be inviting them to speak to each other directly about their experience (see Phase 2 Sample Opening).

Phase 1: Knowing When a Disputant Feels Understood

Consistent and thorough active listening helps the disputant feel understood by the mediator. Here are some signs that tell you that the active listening is working. You may see the following:

- The disputant shows less tension in body and in voice (pitch, tempo, volume lower)
- The disputant says relatively more positive things about other disputant; gentler words are used
- The disputant may offer a statement of regret or even an apology

There are also two common patterns to look for in the disputant's conversation:

1. When a disputant feels heard on one topic, they move on to the next.
2. As the mediator continues to acknowledge a particular concern using active listening, the disputant will have less and less to say about that topic, until they have nothing left to say about it. At that point they may go on to another topic.

Knowing When a Disputant Does Not Feel Understood and What to Do About It

There are some signs that show that the disputant does not feel understood by the mediator. You may see the following:

- The disputant shows more tension in body; may lean forward toward mediator
- The disputant shows more tension in voice (pitch, tempo, volume higher)
- The disputant repeats the same complaints over and over
- The disputant uses stronger words
- The disputant may use insulting terms to refer to the other disputant and their actions
- The disputant interrupts the other disputant
- The disputant adds new complaints or adds other people to their complaint, e.g., "I'm not the only one who can't stand this situation – all the neighbours are complaining about it"
- The disputant appeals to the mediator directly, e.g., "What would you have done?", "Don't you think so?"

To turn the situation around, the mediator needs to provide stronger and more thorough acknowledgement of the disputant's concerns. Here are some options:

- Acknowledge the disputant's concerns more often: as each concern comes up acknowledge it immediately and continue to acknowledge it frequently
- Use stronger words in acknowledging the disputant's concerns
- Acknowledge the concerns at greater length
- Acknowledge each separate aspect of the concerns
- Give the disputant opportunities to speak about more aspects of the events and facts
- Restate the events or facts in more detail
- Give the disputant more opportunities to express positive values, e.g., ask questions about the disputant's "desired ideal"
- Add more acknowledgment of positive values, efforts and intentions (validation)

Preparation for Phase 2

The mediator's private planning, either during Phase 1 or during a break should include:

- A list of what each disputant needs the other to understand.
- A list of what the disputants have in common.
- Plans for which concerns to focus on at the start of Phase 2 and a tentative order for the other concerns to follow
- Plans on how to phrase a prompt to a disputant to enable him/her to begin speaking about each concern (e.g., "A can you tell B how it affects you when...")

Based on what you have heard in Phase 1, it is often best to start Phase 2 discussion with an issue that is less heated, or more likely to result in one disputant showing understanding of the other.

However, you might also consider starting with:

- The main issue (*if you feel they want to get to it right away*).
- A minor issue (*if you feel they don't want to get to the main issue right away*), or
- Something they have in common (*if you feel they will be comfortable being drawn together on that issue at this point*).

Phase 2

1. **Goal: Each disputant feels the other disputant understands what is important to him/her.**

➤ **Mediator needs to:**

- Help facilitate dialogue between the disputants so that they can talk about what is important to them.
- Help the disputant who is listening to acknowledge what the other disputant is saying even if they don't agree with it.

➤ **How you know when you're finished:**

- When each disputant has confirmed that they feel the other disputant understands what they have said about each of their concerns.
- Observe emotional level of each disputant through words, tone and body language: they should be fairly calm.
- Check with co-mediator: "Do you feel we're ready to move on?"
- Ask each disputant if they are ready to work on a resolution

2. **Process**

The process that the mediators follow in phase two can range on a spectrum from being more fluid to more rigid. However, the overall structure is as follows:

- Welcome and description of this part of the mediation (*see Phase 2 opening*).
- Ask disputants to turn chairs a little toward each other. (*This is helpful but not essential*).
- Select one specific concern and ask disputant A to tell disputant B how they are affected by it; ask B to listen and when A is finished then tell him/her what they understood A to have said.
- At this point dialogue may take place between A and B.
- When the dialogue finishes, check in with A to see if he/she feels B understood what was said.
- Once disputant A feels understood on that concern, select one specific concern and ask disputant B to tell disputant A how they are affected. Repeat process until B feels understood.
- Alternate between A and B.
- Follow the order of your planned questions, unless there is a reason to change the order.

Sample Phase 2 Opening

Welcome	Thanks for waiting. I hope you had a chance to get some coffee or juice.
Purpose	<p>At this point, we'd like to ask you to discuss the situation directly with each other.</p> <p>We don't expect you to agree or to find a resolution to the dispute at this phase of the process. But it's important for each one of you to understand how the other person sees the situation, even if you don't agree. We've found that people reach the most satisfying agreements when they've been clear about how both people see the situation.</p> <p>If you could just turn your chairs a little to face each other more, that might make it easier.</p>
Opening Question	<p><i>(Disputant A)</i> could you tell <i>(Disputant B)</i> what it was like for you when... <i>(refer to experience Disputant A has described)</i></p> <p>After that, <i>(Disputant B)</i>, please let <i>(Disputant A)</i> know what you understand about their concerns.</p> <p>Go ahead, <i>(Disputant A)</i>.</p>

Sample Phase 2 Closing

Confirm Readiness	Mediator: It sounds like you both understand each other's perspective better at this point. <i>(Disputant A)</i> , do you feel ready to work on a resolution now?
	<i>(Disputant A):</i> I think so, yes.
	Mediator: <i>(Disputant B)</i> , do you feel ready to work on a resolution now?
	<i>(Disputant B):</i> Yes, I do.

Phase 3

1. **Goal: A clearly expressed agreement that fully resolves the conflict for each disputant.**

➤ **Mediator needs to:**

- Help disputants focus on interests and on generating options.
- Record topics and discussion points.
- Write up agreement.

➤ **How you know when you're finished:**

- Disputants have both agreed to the content and phrasing of the agreement and have signed it.
- Or, disputants are unable to agree and feel the mediation has come to an end.

2. **Process**

- Description of this part of the process (see Phase 3 Sample Opening).
- List interests.
- List issues. You may need to break down the information into different areas so it is manageable to work on. You want to address the issue in a neutral way that is relevant for both of the disputants.
- Let disputants generate ideas for resolution without evaluating them (*brainstorm*).
- Restate and note down all ideas.
- After disputants have generated ideas in many areas, review all the suggestions with them and ask, "Which of these seems most workable?" Help disputants work through each area of concern.
- As disputants come to agreement on each point, create and write down phrasing for the agreement. Be specific and include all necessary details. Write agreement simply and clearly. After they seem to have reached agreement on each point, read that point aloud to check the phrasing with the disputants and to tailor it to their satisfaction.
- Read entire agreement aloud to have disputants check it and make changes as necessary. Make clean copy.
- Disputants sign agreement. Each disputant gets a copy and one copy goes in mediator's file. If not possible to duplicate agreement before disputants leave, send each one a copy as soon as possible.

3. **Techniques**

- The strongest agreement comes from using the disputants' own ideas of what will resolve the situation, not the mediator's. Only if disputants can't come up with any

ideas should the mediator make a suggestion, and then only indirectly, and always include at least two ideas.

- Keep disputants focused on **interests**, not positions. The ideal is for each disputant's needs to be met as much as possible in the given context.
- Help with "reality checks" regarding the practicality or feasibility of a suggestion, if necessary.
- In the agreement, disputants can promise to behave a certain way, but not to feel a certain way.
- If disputants are reluctant to commit to an agreement, one possibility is to make an agreement for a limited time, to be followed by a meeting to assess whether the agreement is working and to make changes. In this way, if there are problems, they will have succeeded at the trial period, instead of failing at the agreement.
- Make sure that future communication between the disputants is covered: how does each one want to be approached in the future should the other want to contact them? Some possibilities are: telephone call, letter, knock on door. Do they need each other's phone number, email address, best time of day to contact?
- Suggest that disputants build a dispute resolution process into the agreement (e.g., "Should any future concerns arise between A and B, they agree to contact each other and try to work out an agreement. If after (10 days), they cannot agree on a solution, they agree to attend mediation.)

Closing

1. *Goal: Each disputant feels a sense of accomplishment and closure.*
2. *Process*
 - Acknowledge the work and process used for resolving the conflict.
3. *Techniques*
 - Closing statement (see sample on next page).
 - Continue the mediator's role as host by seeing the disputants out.

Sample Phase 3 Opening and Useful Phrases and Closing Statement

1. Opening	Now that you both feel ready to work on a resolution, the next step is to generate ideas for solving the various issues you've mentioned. Let's start by touching on some of the needs that the two of you have mentioned, and then we'll move on to generating possible solutions.
2. Listing Interests	<i>(Disputant A), you have said that it is really important to you that you (can spend your nights in your apartment peacefully). (Disputant B), you have said that it is really important to you that you (can relax with music when you get home). Both of you have mentioned that you want to (improve the relationship and the communication between you and your neighbour).[common interests]</i>
3. Listing Issues	<p>It looks like there are a couple of areas that you will need to discuss. They are:</p> <ol style="list-style-type: none"> 1. <i>The music</i> 2. <i>Communication</i> <p>Is there anything else that I've missed that is important for you to resolve? <i>(Add in or, if new, explore first).</i></p> <p>To start off with, why don't we look at the issue of <i>(the music)</i>. [Note neutral term, not "the noise".]</p>
4. Inviting Brainstorm-ing	<p>At this point we'd like to ask you to mention any ideas to resolve the issues we have just listed. We'll jot them down for you as you go. These are just options, not solutions, so feel free to come up with as many ideas as you can. Then, when we have several ideas collected, we'll go through them. You can put those ideas together, change them, or add new suggestions to make an agreement that works for both of you.</p> <p>Just to start with, we'd like you <i>not</i> to consider the good or bad points of any of the suggestions. At this stage, it's useful just to concentrate on coming up with a number of choices and ideas. What suggestions would you like to make?</p>
5. Evaluating Options	We have a number of ideas here. Do any of these options stand out to either of you as particularly workable? Are there any options that would work well in combination with others?
6. Writing Agreement	<i>[See Clearly Written Agreements and Examples of Memorandum of Understanding.]</i>
7. Closing	<p>So, <i>(Disputant A), you have agreed to call (Disputant B) tomorrow to arrange a time to test the music level this weekend. (Disputant B), you have agreed to purchase a stereo stand before this meeting on the weekend. Is that right?</i></p> <p>I want to thank both of you for all the hard work you've put into this today. You've both put a lot of effort into understanding the situation and finding ways to make it work better.</p>

Phase 3: Clearly Written Agreements

Agreements should be SMART:

- 1) **Specific:** have detailed information in plain language (i.e., names, dates, places, amounts - whatever details are necessary to make it clear).
- 2) **Measurable:** the disputants should be able to know if it is working.
- 3) **Accountable:** indicate what each person will be doing, and keeping the agreement balanced (*see below*).
- 4) **Realistic:** help the disputants evaluate how practical the suggested resolutions are.
- 5) **Timeline:** include dates of when things need to be completed and include a date when the mediators will follow up with each disputant to see how the agreement is working.

Future communication between disputants should always be covered, that is, what will they do if a problem occurs in the future? Communicate by telephone, letter, in person?

Balanced Language for Agreements

EXAMPLE 1: alternate names at beginning of items.

1. A agrees to ...
2. B agrees to ...
3. A agrees to ...
4. B agrees to ...

EXAMPLE 2: explicitly state one party's acceptance of the other's action.

1. A agrees to pay \$50 to B.
2. B agrees to accept \$50 as full repayment of A's debt.
1. A agrees to leave the shared driveway free for B's use on Saturdays and Sundays.
2. B agrees not to ask for parking space in the shared driveway on Mondays through Fridays.

EXAMPLE 3: both parties agree to action that one will take.

1. A and B agree that A will notify B before turning down the thermostat.

Some Things Mediators Can Do to Enable Disputants to Minimize the Destructive Potential of Power Imbalances

Before the Mediation

- A mediator can help disputants **identify their sources of power** before the mediation (e.g their legal rights, relevant workplace policies, what other options they have, links to support groups, etc.).
- **Disputants' power to leave** - Emphasize the **voluntary nature** of mediation - at any point they can choose to withdraw without judgement from the mediator
- Help disputants **identify their interests and concerns in advance** so they are clear about what is important to them.
- **Establish rapport** and acknowledge the importance of the disputants' concerns. This will help disputants understand that when the mediator validates the other person's concerns, s/he knows that doesn't mean the mediator doesn't respect hers/his.
- Provide an **interpreter**.
- Select mediators whose **backgrounds match** those of the disputants so that disputants don't feel on "foreign" territory.
- Mediate in a **neutral space**.

During the Mediation Process

- Let the less powerful person start first.
- Get agreement on the ground rules and use them. This gives a less powerful disputant the chance to be heard and reduces the potential for silencing.
- Use active listening and help a less articulate party express him/herself, use summaries to ensure his/her concerns don't get lost. Check in frequently with a vulnerable party.
- Use a language or cultural interpreter
- Invite parties to bring a support person.
- Refrain from any intervention that "pressures" disputants. Expand people's alternatives by conveying empathy and respect so they are more likely to choose constructive options rather than pressuring them into a corner through blame or guilt.
- Remember powerful people don't always feel powerful: When people feel threatened they can become defensive and aggressive so; if the mediator can help the more powerful person feel understood, respected and have his/her needs acknowledged, s/he's more likely to be able to consider the needs of the other party and avoid using destructive moves to defend him/herself
- Mediate in an impartial way: support both parties to say what they need to say - this may not mean equal air time but whatever is adequate for each
- Reframe accusations, blame and threats into information about needs and request as an escalating series of mutual threats will leave the less powerful party with fewer options
- Keep referring back to the self-interest of the powerful person in cooperating with the other party
- Use a caucus to check in with vulnerable party in a private way to get ideas on how you can help him/her engage comfortably and constructively in the mediation
- Be prepared to refuse to mediate cases where the safety of parties is compromised

Quick Intervention Strategies
Mediation Principles Applied "On the Spot"

Reference Sheet

- ▶ **Get the attention of each disputant**

- ▶ **Separate them if necessary**

- ▶ **Tell them you are going to listen to them one at a time**

- ▶ **Restate frequently**

Use active listening techniques to de-escalate each person

- Restating Key Points/Summarizing/ Paraphrasing
- Reflecting Feelings
- Validating
- Encouraging
- Clarifying

- ▶ **Problem-solve**

Choose one of the following approaches, based on your assessment of the situation:

- Involve the disputants in solving the problem. If necessary, defer problem-solving to a later time. Use active listening to help disputants understand each other & communicate what is important to them.
- Suggest possible solutions and ask disputants for their agreement. If necessary, find a more satisfactory solution at a later time using active listening techniques.
- Make a decision on the spot. Debrief and find a longer-term solution that disputants will "buy into" at a later time using active listening techniques.

Personal Action Plan

A key skill or concept I learned is:

As a result of this training, I will...

Keep doing:

Stop doing:

Start doing:
