

Peggy Nicholls explains why having human givens counselling skills makes her a more effective mediator.

Fair as well as middling

WHEN I started out seven years ago as a volunteer mediator, working for an enlightened local authority that offered free mediation to sort out neighbour disputes, the trainers were quick to impress upon me, “This isn’t counselling, you know!”



There are some obvious differences. A mediator is an independent, impartial third party who intervenes in a dispute or conflict to empower and encourage the parties involved to reach their own solutions. Inevitably, there is some crossover between mediation and counselling skills, such as the ability to listen and to manage conflict. However, having taken the Human Givens Diploma, I am aware of a whole other constellation of skills that match mediation with this particular counselling approach. Both mediators and human givens counsellors emphasise the importance of building rapport and pertinent information gathering, the need to set clear goals, the ability to calm people down and to access their resources, and acknowledging what is past but focusing on changing the future. Perhaps it is because the human givens approach has a much wider application than ‘just’ counselling that it has reaffirmed and also informed what I have learned in mediation. It has enabled me to look beyond what is initially presented by aggrieved parties and seek for the unmet, underlying needs because, in most cases, that is why a contentious issue arises. If we can identify the unmet need, we are halfway to solving the problem – and that is what makes a good mediator.

A colleague and I were called in by a local councillor to sort out a neighbour dispute, which had resulted in a young woman called Marian, who lived in a first-floor council flat, wanting an antisocial behaviour order (ASBO) taken out against her neighbour John across the landing.

John and Marian had agreed to mediation but weren’t hopeful that any amicable solution could be found. Marian had made many complaints, to the council, individual councillors and the police, about the fact that John routinely left their communal front door open and then behaved in an intimidating manner towards her, shouting and swearing, if she went down to lock it. By the time my colleague and I arrived on the scene, both were continually scrapping, John yelling at Marian and Marian retaliating by calling him names, and they were completely incapable of behaving cordially towards each other about anything.

Mediators usually work in pairs. This is partly for protection and partly because, if someone

takes a dislike to one of us, the other can step in. Also, if emotions get too frayed at a joint session, we can separate the parties in different rooms temporarily, one mediator accompanying one, the second staying with the other. But the biggest advantage is that, while one mediator (known as the lead mediator) is asking the questions and listening, the other (the co-mediator) takes notes. We see the aggrieved parties on their own first, before bringing them together. When there are two mediators, there is the flexibility of switching roles, so that whoever acts as lead mediator for one party may act as co-mediator for the other. This doesn’t mean we ‘side’ with either: it is crucial that we remain impartial throughout and are seen to do so by all concerned.

An agitated lad

We met with John first. John has Asperger’s syndrome. He knows that he can be extremely loud and emotional – although he isn’t aware of quite how loud and emotional, unless told – and that he cannot control his emotions. He felt aggrieved because people tended to stereotype him; they saw this big, agitated lad and immediately assumed he was in the wrong, whatever was happening.

John, it turned out, left the door open because no entry system had been fitted, and he wanted his friends to be able to come up and see him. He said Marian kept locking the door, which prevented his friends from getting in, and that she kept going on about her sick mother. “I don’t give a **** about her mother!” he roared. He was convinced that she hated him and was spreading rumours about him.

Marian, when we met her, appeared to be quite a timid young lady. She felt unsafe with the door unlocked and was often afraid to come out on to the landing, in case intruders were there. She also had to spend quite a lot of time away, caring for her sick mother, and worried that she might be burgled if the flats were not secure. She was absolutely terrified of John. It emerged that she had previously had an abusive partner, who was physically and verbally violent towards her, and she went to pieces when John started shouting and swearing at her.

We all met together on neutral territory (this is common practice and is usually somewhere such as a church hall or community centre) where each was encouraged to express their concerns constructively. When Marian told John that she was frightened he would hit her, John was horrified. “I don’t mean to frighten you,” he said. “It’s just

that I get cross if I feel people don't listen to me and I yell and I can't stop myself. I've never hit anyone in my life and I would never hit you. I *like* you." People so often don't communicate the things that matter, so it was welcome news to Marian that John actually liked her as a person. She had believed he detested her and wished her ill. In turn, John was helped, for the first time, to see matters from Marian's viewpoint.

You haven't got a doorbell

In terms of needs, it was all quite simple. John wanted to feel connected and not isolated from his friends; Marian wanted to feel safe. The apparent discrepancy between their needs had led to an interpersonal conflict that was nothing to do with the real difficulty. We reframed the situation by taking the emotion out of it and externalising the problem: "So the cause of all this conflict is the fact that you haven't got a doorbell?"

By the very nature of our work, we are dealing with emotionally aroused people. Although we do all we can to create a calm atmosphere and keep proceedings calm, inevitably people who think they have a grievance can feel churned up by emotion. Cutting through that with a simple, powerful reframe that people can actually 'hear', enabling them to take on board a new, more helpful, perspective, is a vital mediation skill.

Once we had got to the point where John and Marian could set aside their wrong assumptions about each other, we could move towards drawing up a written agreement. Although we can guide, we don't ever *tell* people what to do. If we are directive, people are quite likely to be resistant and, at the first hint of difficulty, be all too ready to abandon the suggested solution, saying, "Well, I always knew *that* wouldn't work". Instead, we try to be more subtle, much in the way of a therapist. I might say, "We dealt with a case rather like this a little while ago and what *they* decided to do was ..." Sometimes this meets an instant refusal: "Well, that's all very well, but it *certainly* wouldn't work for us!" "Hmmm, perhaps you are right," I'll reply, and we will probably set another meeting, with the aim of their coming up with some other ideas for a solution in the interim. Then, at that meeting, the client will say, "Well, we thought we could do such and such", and it is the very idea that was rejected the previous week. "That's a promising idea," we'll say, enthusiastically.

In John and Marian's case, once the emotional arousal had been brought down, and the misapprehensions about each other had been dispelled, reaching an agreement was quite easy. First on the list was to contact the council to get a door-entry system fitted. (Both took that on as a task, to make it a double hit on the council.) Secondly, they decided they would try to be helpful to each other. For instance, if Marian was off seeing her mother, John would make sure her milk wasn't left out and would keep an eye on her flat. Also, Marian could knock on John's door if she heard

noises that made her feel nervous. Marian offered to let John use her phone as a contact number for his mum, if necessary, as he was not good at keeping his mobile topped up. Finally, they agreed that, in the future, they would talk calmly to each other, if they had any dispute and that, if John couldn't keep calm, they would bring in a third party to help them, early on.

Although we don't get involved in teaching people life skills in the way that, when appropriate, a human givens practitioner will, we do offer simple pieces of advice, where we can. For instance, I suggested that Marian should quietly inform John when, in any conversation, he was starting to get loud and agitated, to give him the opportunity to nip that in the bud by applying the calming breathing techniques that I showed him. I also suggested to John that, if he really couldn't reduce his arousal, he could make a point of taking time out – walking away. As we established that he would then sit and stew about the issue and get more angry, we agreed that he should immediately try to call someone to talk the matter through with – either his support worker or someone at the mediation service.

John did not have a job and tended to spend a lot of time alone in his flat, which was why he was so keen not to miss out on any visits from friends. My co-mediator gently suggested that he might feel less isolated if he got out and about more, and asked whether he had ever thought of voluntary work. It was a suggestion that interested John, and lifted his self-esteem – although we won't know whether he acted on it.

Clearly, Marian was extra-sensitive to John's loud, aggressive-seeming behaviour because of her own prior bad experience with an abusive boyfriend. She seemed able to accept the reasons for John's outbursts and his basic good intent, despite his inability to control himself easily; if this had been a stumbling block, it might have been appropriate to suggest a referral for counselling of the human givens kind, preferably for rewind treatment to remove the hyper-emotion from the memory of the abuse, to prevent it from continuing to affect her adversely in her current life.

Access to both sides

One of the biggest differences between mediation and counselling is that we have access to both sides and, where conflict is the stumbling block, this can be extremely helpful for moving people on. I was recently told a tale by a GP that amused me. She had prescribed antidepressants for a woman who had become depressed as a result of a serious fall-out with her daughter, and had also referred her to the practice counsellor, who worked from the 'active listening' approach. The woman welcomed the chance to off-load and explore her situation, but, unsurprisingly, nothing changed for the better. Then, one day, she breezed back into the surgery and told the GP that she felt absolutely fine and had stopped her antidepressants, and wanted to stop the counselling.

"I don't need any of it anymore. I've had mediation!" she announced. Because mediators had been able to get the mother together with the daughter and help them identify each other's needs for the first time, enabling them to come up with ways to meet them, the depression had lifted.

Since the beginning of 2005 we have been involved in inter-generation/homelessness mediation and have done a considerable amount of work with families where parents feel they can no longer keep an adolescent at home. Sometimes overcrowding is the issue or sometimes parents feel that a young person's behaviour has become so intolerable that they have no choice but to throw them out of the house. Government has made local authorities responsible for housing 16–17-year-olds who are made homeless. If there is a possibility of the young person staying at home or undertaking a structured move away from home, and they are willing to try independent mediation, the council may, at this point, call mediators in to try and resolve the situation.

Fall-out in the family

Sixteen-year-old Julie Carter and her parents went to the council to discuss rehousing for Julie after a troubled relationship had culminated in a violent incident at home. Julie had gone out with friends and had returned home at 3am, exceedingly drunk. Her parents were so angry that they locked her out, but she created such a scene that they felt obliged to let her in. Once she was inside, a row followed and Julie put her foot through a wall. Her parents called the police, who managed to calm Julie down, but both Julie and her parents decided they had had enough of each other.

Often, young people think that they will get a council flat, if they are evicted, and so aren't initially averse to the idea. But that doesn't happen. They get put in 'bed and breakfast' or a hostel for young people, where most of the residents may be drug abusers or have other serious problems. The council had offered Julie a place at a hostel on the other side of the town. Julie did not want to go, saying she had heard about 'those places' and, if she couldn't have her own flat, she wanted to stay at home.

We saw Julie on her own first and learned she had one older brother and two younger ones, all of whom lived at home. Both of her parents worked full time, her father as a production manager and her mother as a teacher. Julie had had a troubled school career. She had been seeing a child psychologist at primary school and, at 11, had found it difficult to settle into the large comprehensive school she was sent to, especially as she was in a different form group from her primary school friends. Shortly before taking her GCSEs, she was excluded for difficult behaviour and bad attitude to staff and, although she was given a place at another school nearby, had been unable to settle: the syllabus was different and she had no friends there. As a result, she took just two GCSEs, which she passed, and left school afterwards.

The 'trouble' with Julie

Julie gave us the impression of being a very self-assured young lady, who wanted to be in control, especially of friends and family. She seemed to feel that everyone should do what she wanted and, if they didn't, she became angry. She felt 'entitled', after leaving school, to a long holiday before trying to get work. She admitted taking 'recreational drugs' and saw nothing wrong in staying out late with friends and not telling her parents where she was going or what time she would be home. She stayed in bed late in the morning, until everyone else in the house had gone out, and made sure she was out before they returned. She did, however, regularly dust and vacuum and occasionally made a meal for the family. By the time we met her, she had got a part-time job locally as a shop assistant – which she would not be able to get to, if she had to stay in the hostel across town.

When we saw Julie's parents, Mrs Carter was quick to tell us that she had always had 'trouble' with Julie; even as a little girl, Julie used to hold her breath until she went blue, in order to get her own way. Mrs Carter and her husband wanted Julie to be able to stay at home but said that they could no longer cope with her attitude or handle her anger and the rude way she treated the rest of the family (for instance, borrowing her mother's clothes and jewellery without asking and being impatient with her brothers). They also felt that Julie was jealous of her younger brothers. Both parents were extremely concerned about the drug taking and about the fact that Julie was very bossy and easily fell out with people. Mrs Carter feared that Julie would end up isolated, with no friends.

Julie's job as a shop assistant was another bone of contention. They felt that she could do better, even if it meant studying again. Mr Carter thought that evicting Julie would teach her a lesson. If she changed her ways, they would take her back.

My colleague and I spent a considerable amount of time with Julie and her parents, eliciting this information. When we got them all together, our focus was on bringing out the 'positives', which were being overlooked on both sides, and working out how they could manage the 'negatives'. For instance, neither Mr nor Mrs Carter made anything of the fact that Julie kept the house tidy and sometimes cooked. "Do you have to bully her into doing it?" I asked. They shook their heads, surprised at the question. "Well, that's really good! Not many 16-year-olds willingly do all that!" I suggested. Similarly, Julie didn't get much credit for preparing a meal. "She doesn't eat it with us," explained her mother. Julie quickly pointed out that she didn't eat with them because she knew (or thought) they would spend the meal criticising her about something.

My colleague and I also made much of the fact that Julie had got herself a job, albeit one her parents didn't especially approve of. And we were able to establish that Julie often voluntarily



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helped her younger brothers with their homework. But, if they didn't understand what she was telling them, she would – in not uncommon adolescent form – lose patience quickly and get cross. At this point her parents would intervene; there would be a row, and Julie would stamp off, declaring, "I'm never going to help again!" Putting all of Julie's actions in context helped her parents to see that, despite her anger problems, she had a responsible and caring side to her.

Julie, in turn, was helped to realise that her parents' disapproving behaviour stemmed from that fact that they loved her and cared for her and wanted the best for her. Julie had been upset when they had stopped giving her pocket money, even before she got her job. When her parents explained that they were worried she would spend it on drugs, she was mortified: she would never spend *their* money on drugs, she declared, demonstrating a version of morality and respect they hadn't anticipated. We were also able to establish that Julie did resent being treated differently from her brothers but hadn't realised that her parents only gave them more freedom than they had given her because they felt especially protective towards a daughter.

Eventually, with much air cleared, we were able to draw up an agreement. We insist that all agreements are SMART (a term widely used in business): specific, measurable, achievable, realistic and time-bound. In this case, Julie undertook to go out just two nights a week, returning by midnight on a week night and 2am on a weekend night. She agreed that she would say where she was going – she had originally objected to that stipulation but accepted that her parents would worry less if they knew, and therefore fewer rows would ensue, to the benefit of them all.

Mr and Mrs Carter agreed to acknowledge the efforts that Julie made around the house and with her brothers. They undertook to eat together as a whole family one day a week (the particular

day agreed at the beginning of each week) and to try to talk to each other without getting cross or making undue assumptions. Poor communication and assuming knowledge are at the root of most disputes we deal with. (I told the Carters the old adage that " 'assume' makes an 'ass' out of 'u' and 'me'.")

The Carters come back

None of this was achieved quickly. So many facts and feelings came out in our first individual and joint sessions that I sat in the car afterwards and banged my head on the steering wheel, in my initial frustration at not being able to absorb it all or feel a clear sense of direction. Despite that, we had in fact done a lot of positive work and had set them thinking about strategies and solutions, so that, by the next time we met, each individual had moved on a little. My experience is that the longer a dispute has gone on, the more sessions may be required – a dispute over a doorbell can be resolved quite quickly but dysfunctional parent-child relationships may have festered for years. Six sessions or more – a mix of individual and joint and, because of risk of information overload, a maximum of an hour in length – are quite usual in such cases.

Once the agreement was in place with the Carters, we wished them well and made our usual offer: if you run into any problems, come back to us. No more than six months later, Mr and Mrs Carter were back, declaring, "We can't keep her!" A colleague and I spent two hours with them all, exploring what had changed. In human givens therapy, we are encouraged to investigate what it was that happened or was different at the time the symptoms began. In this case, the symptoms were Julie's erratic behaviour and her tendency to get quickly angry and over-emotional. It emerged that Julie had decided to stop drug taking, becoming rather irritable in the process. She hadn't, however,

thought to share this fact with her parents. Alas, when I asked whether this knowledge made a difference, Mr Carter was adamant it didn't. He was back to his assertion that she needed to be thrown out and taught a lesson.

When would she, or they, know that the lesson had been learned, I asked. A day? A week? Mr Carter had no idea but then grudgingly agreed on a review after two weeks. Julie, in turn, was adamant she would not go into the hostel, declaring she would sleep on a park bench for two weeks. (At this point, I remember, as a mother myself, thinking, "I've got a spare bedroom!" and then forcing myself to push the thought away. Julie was trying so very hard to change, but I could not let myself get sucked into her personal drama.)

In cases like these, I really feel the value of working with a colleague. The more sessions you have, the more information is gathered and the greater can be the difficulty of seeing where to go with it all. Sometimes it really helps to take a break and ask the co-mediator to read back their notes to everyone. That can often prompt a client to say, "Oh, I didn't mean such and such *that way*", and that may serve to change our view of something crucial. Sometimes, something we had thought was a big issue we realise is not. Or listening to the 'recap' suddenly triggers a new thought or new view – you realise that you followed up on one thing a client said, but not on another. Or you realise that something else was going on that you missed entirely. For instance, while listening intently to and focusing on Mrs Carter, I may not have noticed her husband shaking his head in the background. The co-mediator, having seen that shake of the head, might say, in reading back, "Mrs Carter feels such and such about so and so. Mr Carter, do you feel the same about that?" (Following our own advice, we try not to 'ass u me' anything either.)

Eventually, Julie's grandparents agreed to take her for two weeks, and then she would move back home, with a view to finding her own flat and leaving. This was a sad case. Julie needed to feel loved. Her parents needed to feel respected. Clearly, there were many deep, unresolved family issues, which counselling might have been able to address, but all we could aim for, as mediators, was to defuse a dire situation, prevent possible tragedy, and do what we could to help the family to move on.

A problem at work

Since becoming an independent mediator, I have increasingly been called in to deal with conflict in the workplace. Mediation is always more cost effective than going to a tribunal, can be used before or even during grievance or disciplinary procedures and, as the process is confidential, the parties involved can express exactly how they feel, without any written record for the future. This is especially important where trust has broken down between management and individuals.

One satisfying case I worked on recently was

that of Nigel and Sarah. Nigel had been appointed to head a busy IT department of eight staff. His predecessor had left the company, and the position had been vacant for several months before Nigel joined the department. There had been a lot to learn, and he was under pressure from his boss to 'deliver'. Sarah, the second most senior person to him, had worked for the company since she left school, with a break to have her children. She had always enjoyed her job and was highly experienced. After a few months, Nigel and Sarah started having serious problems, leading Nigel to ask the human resources department to move Sarah elsewhere, because he felt that she was souring office relations. Mediation was suggested.

We learned that Nigel's concern was Sarah's poor timekeeping and the fact that she spent a lot of time gossiping with Jane. He felt that Sarah did not respect him and was always trying to undermine him in front of other staff, but that her own work was no longer up to standard. According to Sarah, Nigel had come in and started changing all their systems for no apparent reason. She admitted that she had been late a couple of mornings, but she had worked late to make it up, and there seemed no need for Nigel to fly off the handle at her. Everything she did seemed to be wrong, as far as he was concerned, she said. She was fed up with work and considering leaving.

Another old adage I work by is "Dig deep. Act dumb." It is important not just to accept the first answer given but to ask a supplementary question, and maybe yet another. A little more gentle questioning soon revealed that Sarah's daughter Jenny had just moved back to the family home, having split up with her boyfriend, and was suffering from depression. Sarah was desperately worried, struggling to get Jenny to pull herself together and go to work in the mornings, and all this had made her late for her own job. She did not want people at work to know that Jenny was depressed but had confided in Jane, because Jane's husband had suffered in the past with depression.

From all this, we established what could be shared when we all met together. Nigel was open about how belittled he had felt by Sarah's manner of 'helping' him. Sarah accepted that she could have done things more sensitively – for instance, setting him straight in private, when he got something wrong, rather than in front of the whole office. Because we felt it was important that Nigel knew what was going on in Sarah's private life, as it was so evidently having an impact on her work, Sarah had agreed to tell him about her difficulties with her daughter. Nigel was sympathetic but, more than that, he was actively helpful: he informed Sarah that the company's healthcare policy covered employees' family, so Jenny as well as Sarah could be offered counselling. Both Nigel and Sarah ended up accepting that they could have dealt with their situation differently and acknowledging that they did respect each other. Again, failure to communicate had been at the root of the problem, which

quickly escalated out of control. It helps people to realise that it doesn't matter that they can't change the past; what they can change is the future.

Addictive disputes

Mediation has been a brilliant way of working with my human givens skills – and I have carried on adding to those skills, through attending workshops. For instance, I have now realised that, for some people, long-running neighbour disputes are addictive behaviours. They can't solve them, or have no real motivation to do so, unless they develop something else in their lives to focus on. In certain cases, all mediators can do is withdraw.

I had one case that was all about access for cleaning a window. The Dales and the Barretts lived in two adjacent bungalows, with the only access to one window of the Dales' topside bungalow being via the Barretts' driveway. The Barretts were not averse to providing what they deemed reasonable access. However, Mrs Dale was rather zealous about cleaning and she wanted her husband to clean that window once a week, which the Barretts deemed excessive. Request for access led to a refusal, which led in turn to cross words, which led the Barretts to install 6ft-high wrought-iron lockable gates and a CCTV camera. By the time we came on the scene, at the request of the police after the two families had come to blows, the Barretts had boxes of videos, showing every occasion on which Mr Dale had come to ask for access and was turned away. (We acknowledged the existence of the videos but stressed the benefits of hearing what had happened directly from them – otherwise we would have been there for two days just watching videos!) Indeed, when Mr Barrett set about telling us their story, he actually started to laugh and said, "This is really ridiculous, isn't it!" He and his wife said they wouldn't mind granting access once a month.

Within minutes of our arrival at the Dales' home, Mr and Mrs Dale produced 10 shoeboxes filled with cassette tapes of recordings of the conversations between Mr Dale and Mr or Mrs Barrett each time Mr Dale asked for and was refused access. (Unlike Mr Barrett, Mr Dale didn't laugh. He was extremely solemn and felt his rights were being abused.) Again we acknowledged the tapes but got them to tell us about the situation from their perspective.

It took long, hard work with both parties before a written agreement could be prepared – uncustomarily, a good couple of pages long, to accommodate all the provisos inserted by each member of each husband-and-wife team. (We usually try to keep things short, sweet and uncomplicated.) Just as they reached the point of signing, one of the men said, "I'll only sign if *he* apologises first". Instantly, the other demanded the same and neither would budge from that position. At that point, we had no option but to withdraw and leave them to it.

Not a true agreement

It wasn't the end of this particular story, however. One day, in his frustration, Mr Dale scaled the 6ft gates to get access to his window, and Mr Barrett, in fury, pushed him off the ladder. The police, when called, said they were going to prosecute the lot of them. "But we nearly had an agreement!" they protested, in some shock. So the police gave them the opportunity of inviting us back. We did, indeed, end up with an agreement – verbal, not signed. The Barretts would leave their gates unlocked for one specified hour per month and Mr Dale could enter for window-cleaning purposes. The agreement enabled them not to have to see or speak to each other and, as far as I know, they have never spoken since. The dispute was resolved but clearly, alas, the parties were not, as a result, freed up to move on: I fear they remain as addictively concerned with each other's behaviours as ever before.

A lead from China?

In China, there are 50 mediators per 10,000 people, compared with 0.08 per cent per 10,000 of the population in the UK, as I recently learned from a fascinating article by mediator Kenneth Clark. In "the awesome complex of the Forbidden City ... for almost five centuries, all affairs of Heaven and earth were conducted by the Sons of Heaven, who ruled the Chinese empire," he wrote. "Indeed, the Emperors were perhaps the first natural mediators. These Sons of Heaven mediated between the natural and supernatural worlds. Perhaps this explains why mediation is deeply ingrained in China's psyche and culture, emanating from Confucian principles of preserving peace and harmony among people and with nature." Indeed, Clark discovered that mediation more often takes place in cafés and restaurants, rather than in "sanitised and often intimidating office environments". As a senior lawyer told him, mediation allows people to retain or rebuild friendships, rather than go through protracted court cases, which destroy them.¹

I find myself wondering whether there might be fewer counsellors in China and whether we are perhaps top-heavy the other way. Few local authorities provide mediation for anyone who needs it within the borough; some provide it just for council tenants; others provide none at all. Yet, if mediation were more widely available to people early on, a small problem might not swell into something monstrous, and much of the crippling stress, anxiety and depression that result could be avoided. We would have a better chance of preserving and enhancing precious but sometimes fragile emotional, social or workplace connections, and thus a better chance of meeting our emotional needs and living more fulfilling lives. ■

Names of all clients have been changed.

REFERENCE

- ¹ Clarke, K (2006). *Mediation: the Chinese experience*. Mediation in Practice. May.