

# ADR UPDATE

ISSUE 110 | WINTER 2023

## In this Issue:

### **Facilitated Dialogue Model (FDM)**

Towards the Next Generation of ADR

### **The Collaborative Table**

### **The Appropriateness of Mediation in Workplace Harassment**

### **Exploring the World of Restorative Processes**



# BOARD OF DIRECTORS



Marcel Mongeon  
President



Shirley Nguyen  
Vice President



Sarah Albo



Bruce Ally



Donald Bisson



William Cornet



Helen Lighstone



Greg Owens



Kim Parish



Treena Reilkoff



Drew Samuels



Maritza Sanchez



Marshall Schnapp



Jennifer Hyatt  
Treasurer

# ADR Update Newsletter Committee

The Newsletter Committee strives to produce high-quality publications that will provide readers with a sense of connection to the community of Conflict Resolution Professionals in Ontario, a richly diverse group that is constantly expanding and evolving.

Through communications regarding current events, best practices, as well as innovative and stimulating thought pieces, each edition of ADR Update aims to illuminate, amplify and celebrate the diverse voices in the ADR field, from seasoned practitioners to students and newcomers.



**Barbara Benoiel**  
Committee Chair, PhD



**Ben Drory**  
JD, MBA, C.Med, C.Arb



**Robyn Jacobson**  
B.Comm, LLB, LLM,  
PhD, C.Med

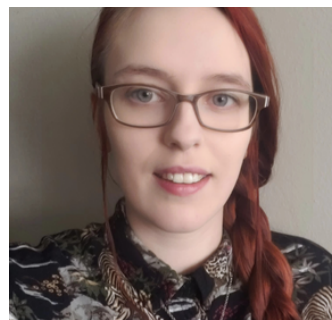


**Kim Parish**  
LLM, C.Med

## ADRIO Staff



**Pramila Javaheri**  
Executive Director



**Sioux Jensen**  
Member Experience  
Specialist



**Karla Tinoco**  
Office  
Administrator



# Contents

**Executive Director's Letter (5)**

By Pramila Javaheri

**Message from ADRIO President (7)**

By Marcel Mongeon

**Congratulations to new President Circle Members (8)**

**Congratulations on your new Designations (9)**

**Why Assessments and Restorations are So Popular (9)**

By Blaine Donais

**ADRIC Update: Ontario Shines at National Conference (10)**

By Marc Bhalla

**Facilitated Dialogue Model (FDM): Towards the Next Generation of ADR (12)**

by Shaaron Jones-Crawford, Harold Tan & David Stinson

**The Collaborative Table (15)**

by Jerry Mings

**The Appropriateness of Mediation in Workplace Harassment (18)**

by Anupa Varghese

**Exploring the World of Restorative Processes (20)**

by Mary Korica



# Executive Director's Letter

By Pramila Javaheri, C.Med

Happy New Year! Wishing you all a healthy, focused and prosperous 2023!

As we welcome in the new year, our ADRIO staff team continues to value the integral role that ADRIO plays in providing the pathway to support people as they build a new career or realign their current career.



Each time you are ready for another step—in your educational path/professional standards, in building your network or leadership skills, or when you require guidance—I encourage you to use the benefits your ADRIO membership provides you. I have found that membership with ADRIO provides the foundation to the cornerstone goal in your career.

As we embark on 2023, I wanted to share 5 robust ways to build your career immediately!

**1. Identify and write down the goals** that you have for your career for 2023.

**2. Create an action plan** that includes your goals and ensure that you have the activities organized for each month to ensure progress.

**3. Be sure to utilize your membership at ADRIO** to support your career by:

- Contributing to our field of Alternative Dispute Resolution (ADR) by joining a Committee and sharing your expertise;
- Heading over to our events page and registering for a special interest section meeting that will increase your expertise;
- Sharing your expertise by writing for our newsletter, the ADR Update;
- Take yourself to your next level of potential by learning about our designations and start working on achieving your designation today!

**4. Be intentional by identifying an area of your professional development** that you want to deepen or a new area that you want to launch into and include this in your annual plan of learning to ensure your goals are met.

**5. Identify 12 new people (1 person each month) you would like to network** with for 2023. Set up some time with them to discuss learning opportunities, areas of collaboration and any advice they would like to share with you that has assisted them as they built their career.

I continue to enjoy seeing many of you at our special interest section meetings, professional development sessions and events as you continue to build your expertise in ADR. Our team has incorporated some new 1-hour sessions to support all of you on your ADR journey. Please continue to watch our ADRIO event calendar for sessions on maximizing your membership, success strategies for student members, tea with our ED, our Ottawa chapter sessions and our quarterly ADRIC Zoom Drop-In. All of these sessions are focused on supporting you, wherever you are on your roadmap in your ADR journey.

I want to congratulate all of our inductees to the ADRIO President's Circle for 2022. ADRIO's President's Circle members are honoured for their commitment of 20+ years of membership and contribution to the field of ADR. Congratulations to Bruce Ally, Peter Baker, Paul Bezaire, Michael Erdle, Verlyn Francis, Matthew Garfield, Paul Godin, Pramila Javaheri, Judy Neger, Hebert Wisebrod! I am honoured to be among our President's Circle members for 2022 as I have been a proud member of ADRIO for 20 years now. I want to thank all the past staff members and board members over the years who have contributed to all of our success in the field of ADR in Ontario. I want to also congratulate our four Star award recipients for 2022. The ADRIO Star award is a staff-choice award, dedicated to members who have made a memorable impact through their volunteer work at ADRIO in a given year. Congratulations to Bruce Ally, William Cornet, Helen Lightstone and Kim Parish!

In the last 3 months we have had the pleasure of welcoming Karla Tinoco, our new part-time Office Administrator onto our team. I am grateful to continue to invest in building a cohesive team here at ADRIO to serve our membership and the public as we facilitate ADRIO's strategic direction at the operational level.


Wherever you are on your roadmap, please remember our **ADRIO team** is here to support you.

I look forward to 2023 being a year of connection, growth and prosperity with all of you at ADRIO!

Until our next interaction, stay safe and be well!

Sincerely,

*Pramila*

Pramila Javaheri, C.Med, WFA   
Executive Director, ADR Institute of Ontario





# Message from ADRIO's President

**By Marcel Mongeon, C.Med, LLM, MBA, M.Sc**

Concern is frequently leveled at the legal community for moving slowly in the areas of equity, diversity and inclusion. Because of the proximity of ADR to the legal community, similar concern may be expressed in our own field.

I thought it would be useful for the Institute's members to understand how the Board of Directors understands and supports issues related to equity, diversity and inclusion and how we want to continue "moving the needle."

In November 2020 the Institute's board adopted a statement which was then sent to members. The statement included a commitment to:

- support members impacted by systemic racism;
- work towards breaking down barriers faced by members from racialized communities in their ADR practices; and
- work towards diversity and inclusion within ADRIO and the broader ADR sector.

The adoption of the statement then led to a policy framework adopted in January, 2021. This included an action plan which provided for actions among the Institute's members, employees, volunteers and board directors. Issues related to our policy framework are regularly considered in the monthly work of the board. The Fall Issue of ADR UPDATE will be a themed newsletter focusing on equity, diversity and inclusion. Please consider submitting an article. Details regarding this themed issue will be made available soon.

In addition, our equity, diversity and inclusion special interest section—headed up by our vice president, Shirley Nguyen—organizes regular unique and engaging sessions on related topics.



Personally, I have found the sessions interesting and, at times, eye-opening. What I have learned has caused me to reconsider many things that I do and how I manage in my ADR practice.

An important aspect of diversity is ensuring that the ADR Institute stays at the forefront of thinking and actions in the field. Recently, as part of work that I do elsewhere, I became aware of the 50-30 Challenge, an initiative of the Government of Canada.

The Challenge has two aspirational goals:

1) The 50 refers to ensuring there is gender parity (50/50) on the boards of directors and in senior management of organizations; and

2) The 30 refers to ensuring that there is at least 30% representation on boards and in senior management of members of other equity-deserving groups, including those who identify as Racialized, Black and People of Colour;

**"With a lack of diversity, sometimes the right questions do not get asked. The more diverse a board, the more likely a different point of view will be available."**

People with disabilities (including invisible and episodic disabilities); 2SLGBTQ+ and/or gender and sexually diverse individuals; and Aboriginal and/or Indigenous Peoples.

Why is the achievement of these goals important for boards and the management of an organization? The answer is simple. The more diverse an organization's leadership, the more likely it is to succeed. When you think about it for a minute, the reason why that should be is also simple. An important task of a board is to keep asking questions about any proposal and ensure that it meets the needs of members specifically and society generally. With a lack of diversity, sometimes the right questions do not get asked. The more diverse a board, the more likely a different point of view will be available.

Great news is that ADRIO's ED, Pramila Javaheri, advises me that ADRIO may already have achieved the 50-30 goals. Our board and staff are already drawn from very diverse backgrounds. We can't however be complacent. Even if we think we have met these aspirational goals, we have to continue to keep issues of equity, diversity and inclusion at the forefront of thinking in ADR and in our own daily ADR practices.

Why?

Because it is the right thing for ADRIO to do and is good for our members' businesses!

For more information about the ADRIO\_DiversityEquityInclusion PolicyFramework please visit: [https://adr-ontario.ca/wp-content/uploads/2021/09/ADRIO\\_DiversityEquityInclusion PolicyFramework\\_AprovedJan26-2021\\_FORNL2.pdf](https://adr-ontario.ca/wp-content/uploads/2021/09/ADRIO_DiversityEquityInclusion PolicyFramework_AprovedJan26-2021_FORNL2.pdf)

## **Congratulations to new President's Circle Members**

Bruce Ally  
Peter Baker  
Paul Bezaire  
Michael Erdle  
Verlyn Francis

Matthew Garfield  
Paul Godin  
Pramila Javaheri  
Judy Neger  
Hebert Wisebrod





# Why Assessments and Restorations are So Popular

By Blaine Donais, LLB, LLM, C.Med, Q.Arb, PHSA, WFA



As we are beginning 2023 and emerging from the pandemic, many of us in the fields of assessment and restoration have had our work cut out for us. The confluence of increased workplace regulation and the impact of Covid on Canadian workplaces has led organizations to rethink how they do work and how they manage conflict. Working from home has posed many communication challenges for organizations and this has led to misunderstandings and values conflicts. The reintegration of employees back into a live setting has also posed serious challenges for workplaces.

Our understanding of the connection between restorative practice and assessment has also changed. Five years ago the term Violence and Harassment Risk Assessment was virtually unheard of. Now it is a requirement for all federally regulated workplaces and a best practice for workplaces in all jurisdictions.

Like workplaces themselves, our WFI/ADRIO training on Workplace Assessments and Restoration has evolved rapidly over the last five years to explore the new challenges and opportunities in the workplace setting. We invite you to explore the new world of work with us in July 2023 as we offer our 11th consecutive course on Workplace Restorations and Workplace Assessments. For more information, please visit this [link](#).

## Congratulations on your new Designations

### New Qualified Arbitrators (Q.Arb)

David Wheat  
Charles Batrouny  
Pamela Pengelley  
Lea Kivi  
Christian Tacit  
Mitchell Rose  
Kathryn Manning  
Alexander Gay  
John DeVellis

### New Qualified Mediators (Q.Med)

Rhonda Paulsen  
Alannah Robinson  
Caroline Graham  
Trina Zeimbekis  
Moataz Sheriff  
Kathleen Hilchey  
Bonny Kaman Li

### New Chartered Mediators (C.Med)

Andy Williams  
Shaaron Crawford

# Ontario Shines at National Conference

By Marc Bhalla, LLM (DR), C.Med, C.Arb

Marc Bhalla (he/him) is a Director of ADR Institute of Ontario - ADRIO, and represents Ontario on the Board of Directors of the ADR Institute of Canada. Marc welcomes feedback from ADRIO members and can be engaged in this capacity at <https://www.ADRICrep.ca/ON>



The ADR Institute of Canada's annual conference returned in-person for its 48th edition on October 20 and 21, 2022. Presented in Gatineau, Québec, "ADRIC 2022" represented the first national gathering of leading dispute resolution practitioners since November 2019 in Victoria, British Columbia.

On Thursday, October 20, 2022, I left for Gatineau by car from my home in Toronto at 3am to arrive in time for the start of ADRIC's Annual General Meeting. There, I found myself joining the National Board of Directors. While I was enthusiastic to take on my new role as Ontario's representative, I beamed with pride over the course of the conference at how well our province was represented on the national stage.

I was pleased to attend the panel on diversity led by William Cornet (C.Med), which could have gone on for the entire afternoon. William fielded questions from a very engaged audience as he explained various natures of diversity – from that we can easily observe to that we cannot. I overheard attendees commenting that the session should have been a conference-wide presentation. Takeaways focused on achieving actual inclusion rather than token efforts. The session did not shy away from acknowledging systemic challenges in search of meaningful action, and offered attendees clearer understandings to help work toward it.

The next day, Helen Lightstone (C.Med, Q.Arb), led a session titled "Photography and Conflict Resolution." Here, Helen brilliantly demonstrated the connection between the art of photography and the art of dispute resolution through the concepts of framing, lighting, cropping and wide-angle lens vs. zoomed-in perspectives. A series of photography tips were sprinkled throughout as a bonus. Helen did Ontario proud by giving shout-outs to ADRIO Past President Joan Cass (Q.Med) and former Professional Development and Communications Manager Tommy Lam, using photos of them in her examples. While I still struggle to take a selfie, I learned so much through the parallels Helen provided and found the presentation refreshing, fun and insightful.



I must apologize to Lawrence Herman (C.Med) for missing his session on mediator regulation. The truth is that I got distracted by Richard Moore (C.Med, C.Arb) and Zoë Barrett-Wood readying for their session by moving around the furniture in the room. Adjusting the location of tables and chairs with the precision of professional wrestlers, Richard and Zoë were clearly intent on disruption in “Intro to Improv for Mediators – Comfort in Uncertainty, Joy in Collaboration.” They quickly established a safe space by refusing spectators, and encouraging all to just go with the flow – as we so often do as we mediate. This was anything but your typical, “stuffy” conference presentation!

Everyone at the conference was noticeably tired by Friday afternoon, which is what I think made the session with Treena Reilkoff (Q.Med) so incredible. Focused on trauma-informed practice, Treena spoke of common trauma responses that are essential to understand in contemporary practice, and brought an energy that lifted spirits. She was clearly up to the challenge of tackling subject matter that can be difficult to get into, and the level of engagement was uncommon for a late-afternoon, last-day session, yet it seemed to come naturally to the presenter. A lasting image in my head is Treena bouncing around the room with microphone in hand, delighted to take questions.

I would be remiss to end my report without acknowledging ADRIO President, Marcel Mongeon (C.Med), who loomed large (in a good way) throughout the conference. No one left uncertain about the depth of leadership, experience and insight offered from the land of the Algonquin, Mississauga, Ojibway, Cree, Odawa, Pottowatomi, Delaware and the Haudenosaunee–Mohawk, Onondaga, Onoyota’a:ka, Cayuga, Tuscarora, and Seneca–Nations. I can honestly say that I have never been prouder to represent Ontario!



Follow us on  
LinkedIn and Twitter  
(@ADROntario)



## Did you know?

You can use the  
**ADRIO Dispute Resolution  
Professionals Directory**  
to search for ADR Practitioners  
in Ontario who offer Online  
Dispute Resolution

[www.adr-ontario.ca/directory](http://www.adr-ontario.ca/directory)



# Facilitated Dialogue Model (FDM): Towards the Next Generation of ADR

By Shaaron Jones-Crawford; Harold Tan; David Stinson

Within the ADR spectrum, practitioners utilize processes including Conciliation, Facilitation, Negotiation, Mediation, Arbitration, Med/Arb and ODR. The authors believe there is a changing global landscape that includes fiscal austerity, return to office and relaunching of interpersonal skills. Organizations and employees are increasingly time and resource starved. These circumstances exacerbate existing tensions and create new conflicts. In adapting, the ADR field needs more timely and innovative tools that are pre-emptive, efficient and expeditious.

The authors have conceptualized and designed an innovative adaption to existing facilitation models called Facilitated Dialogue Model ("FDM"). This Model comes out of our practice in Law and ADR. FDM is a directive, fast-paced, time-efficient model where a neutral Facilitator manages Stakeholder-generated dialogue. This requires: Retaining Client who is progressive, dynamic, prepared to take some risk and assumes responsibility for vetting Stakeholders; Facilitator who is experienced, intuitive, observant, analytical and skilled; Stakeholders who are articulate, diligent, committed, collaborative and capable of engaging in direct dialogue.

FDM is akin to a Grand Prix: the driver and pit crew work in synchronized tandem, and time their actions to the second. From start to finish, FDM is structured to take no more than 5.0 hours.

**"... the ADR field needs more timely and innovative tools that are pre-emptive, efficient and expeditious."**

Our review of Facilitation literature from authors such as Roger Schwartz[1], John Forester[2], Janice M. Fleischer[3] and Adam Kahane[4] demonstrate consensus on the key skill sets required to be an effective Facilitator. These requirements include: strong verbal and non-verbal skills, analytical questioning, trust building, reframing and effective Stakeholder management. All are prerequisites for the FDM Facilitator to "drive" this high-performance model. FDM is designed for future-focused conflicts that are less than 1.5 years in duration, and when decision makers require speedy resolution. Examples include: discord in work/project teams, mergers and amalgamations and stalled ADR processes. FDM does not preclude participants from accessing other ADR or litigation options.

The FDM designers precluded historical relationships, as FDM focuses on immediacy, today. In our conceptualization, FDM is not appropriate for entrenched interpersonal conflicts, family and estate, etc. Conflicts over 1.5 years are too entrenched and complex, and would be better suited for other ADR processes.



As with other ADR processes, FDM is private, confidential and voluntary. The FDM Facilitator initiates meeting with the Retaining Client (Meeting #1) and provides an overview of the process, benefits, and their roles and responsibilities. The Retaining Client selects and vets Stakeholders they believe appropriate.

After Stakeholders agree to participate, the FDM Facilitator meets with each Stakeholder separately (Solo Meetings #2 and #3) to briefly outline the process, their specific roles and responsibilities, and the opportunities presented at the Joint Session (Meeting #4).

During their Solo meetings, Stakeholders are informed that one of the benefits of the Joint Session is that they are required to listen without restatement or rebuttal. However, this listening role is not passive. Stakeholders are directed to identify potential threads of expansive collaboration when the other is speaking.

At the end of the Solo Meetings, the Stakeholders are informed that they will receive a concise, customized Questionnaire that directs them to identify no more than three issues they wish to communicate to the other. Stakeholders are required to return their completed Questionnaire to the FDM Facilitator within 12-24 hours.

The FDM Facilitator analyzes the Questionnaire responses and applies the principles and skills of reframing, rephrasing and negotiating, to build an Agenda composed of no more than three items. The constructed Agenda should cover all of the topics identified in the returned Questionnaires and becomes the platform that permits direct dialogue between the Stakeholders (Joint Session – Meeting #4).

Once the Agenda is prepared, the FDM Facilitator sends the Agenda to the Stakeholders 12-24 hours prior to the Joint Session (Meeting #4).

## "The quality of collaboration required in FDM goes beyond the traditional ADR understanding of the word."

Stakeholders are instructed to speak only on the issues identified in the Agenda. Each Agenda item is afforded a specific amount of time, and this time is tightly controlled by the FDM Facilitator.

In the Joint Session, the FDM Facilitator opens the meeting with a brief reminder of the process, roles and responsibilities. For Agenda item #1, the Stakeholders take turns speaking and listening in equal measure. They do not do both concurrently. FDM does not permit restatement, summary or rebuttal. At the conclusion of Agenda item #1, a break is called. This pattern is repeated for the remaining Agenda items.

After the Stakeholders have spoken on all Agenda items, the FDM Facilitator asks both Stakeholders to engage in expansive collaboration. This collaboration, at the final stage of FDM process, may lead to a brief and concise agreement ("Agreement").

The quality of collaboration required in FDM goes beyond the traditional ADR understanding of the word.

Authors like Adam Kahane[1], Nobukhosi Ngwenya and Liza Rose Cirolia[2], John Forester[3] and Malcolm C. Burson[4] use terms such as "stretch collaboration," "communicative collaboration," "conflict gradient" and "community/collaborative." The commonality of these models is the recognition that collaboration is "a critical skill for coordinating the ideas and contributions of diverse sets of people..." (Brad Spangler)[5].

The FDM Agreement respects divergent positions and offers the widest possible ZOPA[6]. For example, one Stakeholder may have 60% of their needs met, the other 40%. This is an acceptable FDM agreement. What is paramount for Stakeholders is that the race was concluded and both cross the finish line together.

The changing landscape previously described provides opportunities for evolving ADR processes, such as FDM. FDM is not facilitative mediation. The benefits include: Model which allows for highly-focused and efficient problem identification; customized, Facilitator-designed Agenda which provides a focused platform for Stakeholders to have a direct, specific dialogue; collaboration that breaks the traditional rules, leading to an expansive ZOPA; process designed to be completed in 5.0 hours or less; process that is scalable to include more than two Stakeholders.

In the Grand Prix, everyone on the track is subject to specific rules that are designed to facilitate speed, involve highly skilled participants, and the goal is a single winner outcome. FDM has all of these, except for one key difference: both Stakeholders are winners because they share the chequered flag.

---

[1] Schwartz, Roger (1994). *The Skilled Facilitator: A Comprehensive Resource for Consultants, Facilitators, Managers, Trainers and Coaches*. John Wiley & Sons.

[2] Milz, Dan (2022). *The Hidden Benefits of Facilitated Dialogue*. *Journal of Planning Education and Research*, 42:1, 19-35, citing John Forester (2009, 2013).

[3] Fleischer, Janice & Zena D. Zumeta.  
<https://www.mediate.com/preventing-conflict-through-facilitation/>

[4] Kahane, Adam (2017). *Collaborating with the Enemy*. Berrett-Koehler.

[5] Kahane, Adam (2021). *Facilitating Breakthrough: How to Remove Obstacles, Bridge Differences and Move Forward Together*. Oakland: Berrett-Koehler.

[6] Ngwenya, Nobukhosi and Liza Rose Cirolia (2021). *Conflicts Between and Within: The 'Conflict Rationalities' of Information Occupation in South Africa*. *Planning Theory and Practice*, 5:22. Retrieved from

<https://www.tandfonline.com/doi/full/10.1080/14649357.2020.1808237?scroll=top&needAccess=true>

[7] Forester, John (2013). *Planning in the Face of Conflict: The Surprising Possibilities of Facilitative Leadership*. American Planning Association.


[8] Burson, Malcolm C. (Spring 2002) *Finding Clarity in the Midst of Conflict: Facilitating Dialogue and Skillful Discussion Using a Model from the Quaker Tradition*. *Group Facilitation: A Research and Applications Journal*. 4:55.

[9] Spangler, Brad (July 2003). *Facilitation.BeyondIntractability.org*  
<https://www.beyondintractability.org/essay/facilitation>


[10] Zone of Potential Agreement

## The authors




Shaaron Jones-Crawford   
Barrister, LL.M., EC.CM



Harold Tan, Q. Med   
LL.M. (ADR)



David Stinson, Mediator  
Investigator, BAA 



# The Collaborative Table

By Jerry Mings, Q.Med, CPF | M

The journey of a mediator can take different paths. One area of focus is two-party disputes to help the parties find answers to problems or a conflict. Other conflict areas may include family, workplace or community-based disputes. A differentiating situation is the collaboration table.

The collaborative table[1] is a space where organizations come together to collaborate in the best interest of the people they serve. It is where sharing innovative ideas and projects take place. An example includes community, government and private sector firms working together. No two collaborative tables look the same. They are formed, work together and then disband when the collaboration achieves its goal.

**"No two collaborative tables look the same. They are formed, work together and then disband when the collaboration achieves its goal."**

One of the challenges with collaborative tables is finding a way to resolve conflict while strengthening group collaboration. With so many voices, perspectives and different expectations at one table, there can be misconceptions, disagreements and challenges with building and sustaining a collaborative workspace.

Here are four factors to consider when working with a collaborative table to support creative dialogue while enabling different perspectives to support long-term success.

## 1. Building Ground Rules for Collaboration

Ground rules[2] consist of principles guiding the conversations of the participants at the table. First, they provide the group with a framework for listening to each other and responding to information shared at the table. Second, ground rules move beyond "one voice at a time" to "creating space to listen and acknowledge different perspectives." Third, taking the time as a group to establish, confirm and develop ground rules is a practical step to supporting a creative, collaborative environment.

Finally, meaningful ground rules can answer the following questions:

- How will we listen to each other?
- How will we respond when we disagree with information?
- How will we create a space where everyone can participate?
- How will we listen to and understand different perspectives?
- How will we use evidence as part of our conversations?



## 2. Finding Tangible Benefits

Benefits and outcomes are essential elements of the success of a collaborative table. Benefits include learning the latest information from other parties, finding shared opportunities and creating new products and services. Outcomes<sup>3</sup> provide evidence of changes the collective work can make for the members of the table and society. Finding benefits and outcomes requires a table to take the time to focus on the "what." The table must take the time to explore the following questions carefully.

- Who do we collectively serve?
- What are their needs?
- What are the short- and long-term benefits of the product or service?
- What is the sustainability of the product or service?
- What is the budget for the project or service implementation, operation and wind down at the end of project?

## 3. Collaborative Action Steps

The long-term stability of a collaborative table rests in its ability to get things done. Working together is based on three principles for success. First, the table must be able to share resources (e.g., people, money and expertise) to support the successful implementation of the new services and ideas. Second, there is a need to build timelines and an operational structure that allows everyone to participate in developing the services or products. Finally, there is a need to check in and monitor the progress of the work continually. It is helpful to consider the following questions in building collaborative action plans<sup>4</sup>.

- Who will lead the implementation work (e.g., individual, small working group)?
- How long will the development work take to complete?
- How will the table pool resources to support the implementation?
- How will the table coordinate the work?



## 4. Shared Evaluation

Implementation and operation of the new service or product will need ongoing evaluation. Therefore, the table should play a role in both the design of the evaluation framework<sup>4</sup> and utilizing the evaluation results. The table should work together to identify an evaluation process to measure the implementation and consider how to evaluate the service or product once it is in the users' hands. The group can add an evaluator to the team to assist with designing the evaluation process and consider student engagement from the local college or university. Evaluation is essential to measure what is going right and opportunities for improvement. Consider the following questions in building an evaluation framework to support collaborative work.

- Who can we partner with in the community to support our evaluation work?
- How will we evaluate the implementation work?
- How will we evaluate the provision of the service or product?
- What are the metrics we could use to measure success?
- How can we involve the people served in the evaluation process?

## Supporting the Collaborative Table

Collaborative tables create a unique opportunity for mediators to support participants as they work together. It opens the door to understanding how to address creativity and conflict simultaneously. First, the group can focus on listening and learning from each other through shared ground rules. Second, careful attention to the "what" and then the "how" allows a group to progress with projects. Finally, evaluation provides a framework to enable the table to learn together.

**"Focus on the success factors can be the start to helping participants find their voices when working together."**

The journey of a mediator can take different paths. While collaborative tables may be large and complex, it is a place where one can have influence. Focus on the success factors can be the start to helping participants find their voices when working together.

## The author



Ethan J. Mings, Q.Med, CPF | M   
is a facilitator in Oakville, Ontario. His work supports Boards and Senior Teams in their governance, strategy development and dispute resolution activities

- 
- [1] Kaner, Sam and Noakes, Nelli. "Multi-Stakeholder Collaboration - Strategies, Design Principles and Best Practices." Participant Work Book. San Francisco, California: Community At Work, December 11, 2017.  
[2] Nelson, Wayne and Nelson, Jo. Getting to the Bottom of ToP. Bloomington, IN: iUniverse, 2017.  
[3] Staples, Bill. "Transformational Strategy - Facilitation of ToP Participatory Planning." In Transformational Strategy - Facilitation of ToP Participatory Planning, by Bill Staples, 281. Bloomington, IN: iUniverse, 2013.  
[4] Clarke, Helene. "Theory of Change: The Real Thing and How to Design Successful Social Change Projects." Chap. 13 in Methodologies for practice research: Approaches for professional doctorates, by Carol Costely, & John Fulton, 227 - 248. London: Sage, 2018.

# Restorative Mediation Services

MEDIATION - CULTURAL CONTEXTS - EDUCATION

## WHO WE ARE

A team of professionals and active members of ADRIO/ADRIC:

**Dr. Rhonda L. Paulsen**, Honours BA, M.A., Q.Med., Ph.D Education, Professor, Curriculum Specialist

**Helen Lightstone**, LL.M., Q.Med., C.Med., P1, W.F.A., College Instructor

**Regina Odofle Thompson**, LL.M., C.Med., Acc.FM, CP Med., Certified Adjudicator

## WHAT WE OFFER

**Mediation Training through a suite of six 45-hour online courses**

Asynchronous and Hybrid models of delivery to choose from



**Launching February 2023**

Visit our website for registration  
and more information

[www.restorativemediationservices.com](http://www.restorativemediationservices.com)

[restorative.mediation3@gmail.com](mailto:restorative.mediation3@gmail.com)



# The Appropriateness of Mediation in Workplace Harassment

By Anupa Varghese

Investigations of workplace harassment complaints are mandatory under the *Ontario Occupational Health and Safety Act* (the “Act”) if the complaint meets the definition of harassment as set out in section 1 of the Act. Investigations are not obligatory for any complaints that fall outside this definition. They could be dealt with through other means including mediation. Mediation should also be considered for harassment complaints that do require investigations.

Investigations and mediation work well together and are effective tools in dealing with workplace harassment complaints. Investigations focus on the conduct and the merits of the complaint. They determine whether some form of harassment took place. Once the investigation comes to a conclusion, mediation can then be used to address the impact of the conduct in the workplace and on relationships between employees and/or between the employees and the employer.

## Is mediation appropriate in workplace harassment?

Mediation, however, is not always considered to be an option because it is seen as inappropriate in such a context, especially in relation to workplace bullying or sexual harassment. It has been suggested that it is inappropriate because it could cause further harm to the individual who made the complaint (the “complainant”) or, it could be manipulated in such a way as to benefit the person who the complaint was made against (the “respondent”), or it could be subject to employer interference.

There is no doubt that mediating workplace harassment can be challenging and difficult. Yet, the focus should not solely be on the appropriateness of mediation. Instead, consideration should be given to the wishes of the individuals involved in the complaint and, in particular, that of the complainant.

If the parties are open to mediation, then it should ultimately be up to them to decide whether it is appropriate for them. Mediation should not be denied as an option because someone other than the parties, i.e., the employer or the mediator or another professional, deems it to be inappropriate.

## Empowerment through choice

Harassment disempowers the complainant and deprives that person of choice and control. Seeking a mediation process to address the harassment is a way for the complainant to regain and assert some form of agency.

Once the person has signalled that s/he is open to the possibility of mediation, then it should be offered to her/him as an option. The complainant knows what is in her/his best interest and, therefore, only the complainant can make a decision about whether mediation will meet that interest. The complainant does not need to be protected from the consequences of that decision even though it is being made in the aftermath of workplace harassment. When someone other than the complainant decides the appropriateness of mediation in workplace harassment, it causes further disempowerment and robs her/him of choice and control.



I have worked at a sexual assault centre with individuals who had experienced sexual violence, harassment and bullying. I provided whatever support they needed and helped them make difficult and unpleasant decisions, such as going to the hospital for evidence collection, filing a police report, telling family and friends. I did not make decisions for anyone. Nor did I tell them that I believed that their decisions may be unsound or may cause regret in the future. They were given the freedom and the power to choose for themselves. It is a very simple but significant way of helping them regain and exercise control over their lives.

Had I not worked at the centre I would have believed that it would be distressful for the complainant to provide any input and would have been content with allowing the mediator the liberty to exercise professional judgement in determining the most suitable path forward. It is easy to overlook involving the complainant from the very beginning, even before mediation starts. Ask the person what a mediation would be like for him/her. Provide adequate information so s/he can make an informed decision.

### The mediator's role

The mediation process for workplace harassment may not look like a traditional mediation. The process may need to be adjusted based on the complainant's input. But, that does not mean that the complainant should be allowed to dictate the process or that the complainant's interests and wishes should be prioritized above all else. The mediation should be balanced and not one-sided in favour of the complainant at the expense of the respondent.

The mediator also needs to consider some of the serious issues that may be present. These include power imbalances, possibility of retaliation, disciplinary action or loss of employment. Before mediation can proceed, the mediator needs to be satisfied that adequate safeguards can be put in place to address these issues (if they exist).

It is very important to speak with the employer, the parties, other employees and ask questions regarding:

- What each party hopes to gain from the mediation;
- Whether the parties' participation is voluntary;
- Whether the complainant is emotionally capable of speaking to the respondent and/or has access to adequate professional and other support services/persons;
- Whether the workplace has an environment that is supportive of and conducive to a confidential and voluntary mediation without fear of retaliation or further harassment;
- Whether the respondent is willing to listen to, and not blame, the complainant.

Based on the responses to these questions it may become evident that there are too many risk factors involved, they cannot be adequately dealt with and, therefore, mediation would not be helpful in a particular workplace. In such cases, the mediator has the final say in deciding the appropriateness of mediation.

## The author



Anupa Varghese  
Mediator





# Exploring the World of Restorative Processes

**"... there is a growing demand for restorative processes—particularly from justice, education, health and other institutions—because institutions are not good at responding to injury, loss or trauma at the individual and community levels while restorative processes can be."**

**By Mary Korica**

On November 22, 23 and 24, 2022, ADRIO hosted the live online workshop "Exploring the World of Restorative Processes" facilitated by Barbara Benoliel PhD, LPI, with speakers Alan Howard, Q.Med; Vanessa Slater, Q.Med, LLM; Shirley Nguyen, Q.Med; Joan Cass, MSW, RSW, Q.Med, ADF

Barbara Benoliel has over 25 years of practice as a mediator and works in restorative processes. She holds a PhD in Human Services, Criminal Justice and is Senior Faculty at Walden University.

The three-day workshop provided a deep dive into restorative processes from practical, theoretical and academic perspectives. It included specialist presentations, scenarios, reading and reference materials and group discussions.

Barbara Benoliel introduced the topic by noting that there is a growing demand for restorative processes—particularly from justice, education, health and other institutions—because institutions are not good at responding to injury, loss or trauma at the individual and community levels while restorative processes can be.

Restorative processes are present in every area of dispute resolution practice—from workplace to judicial to environmental and beyond—and the term has been used to describe everything from peace circles to court youth diversion programs.

These processes have in common the presence of a perceived harm, with clearly identified participants, among whom there is some degree of acknowledgement of harm and openness to restoration, and engagement of the community in the process (importantly, these may not be confidential processes)

But as great as the interest in restorative practices is, there are also important challenges to using them appropriately and successfully. "Not all restorative processes are restorative," Benoliel cautioned.

Vanessa Slater, Co-chair of ADRIO's Restorative Justice section, spoke about the need for preparation in advance of any restorative process. "It's a huge key to success. There must be significant care given to doing intake, setting up the room, managing expectations, even creating a mandate and establishing 'what do we want to get out of this?' A lot can go wrong."

Slater sees a lack of education and training as a big obstacle to restorative processes being applied as often and as effectively as they could be. “I would argue that lawyers, first responders, health care workers, human resources workers—people who expect to have contact with people in trauma, in conflict—all need some basic restorative practice training so that they can interact appropriately.”

Alan Howard, the other Co-chair of the Restorative Justice section at ADRIO, echoed Slater about the need to prepare well. “It’s all about relationships,” he said. “It’s about establishing the alliance between the facilitator and the people individually before there’s a group discussion, so that there is trust, safety, vulnerability and a feeling that one is not going to be judged or further traumatized.” Howard added that “the most difficult thing is trying to do what’s needed in a short period of time” given that what is being addressed may be lifelong issues, under conditions of fragility and with the responsibility to do no harm.

Speaking more broadly, Howard added that he feels excited about the opportunities for restorative dialogue and practices that have opened up across Canadian society. He attributes this positive development to the reconciliation movement with and, particularly, driven by Indigenous communities.

Shirley Nguyen, Vice President of ADRIO and Chair of ADRIO’s Diversity section, participated in a session about how equity, diversity, inclusion, culture and the basic human need for belonging relate to restorative practices. She joined Benoiel in providing examples of how newcomers to Canada sometimes find themselves involved in restorative processes simply because “of their lack of knowledge of our laws, rules and regulations, perhaps compounded by language barriers.” In such cases, Nguyen emphasized that the practitioner’s skills at being sensitive to cultural differences, listening, and taking cues from the parties can make all the difference.



Benoiel spoke about the need for practitioners to understand that the social aspect of restorative processes is the most important. These processes, by definition, take place within a community. They include among their goals the restoration of individuals (be it the individual’s sense of safety, wellbeing, fairness, justice, etc.), but also the restoration of individuals into the community or group they want to be a part of.

In all cases, said Benoiel “the process is what accomplishes the restoration or healing, not the outcome, whether that outcome be an apology, some other form of action, or financial restitution.” She added that “the person is really restoring themselves, they are not being restored by others.” So, the practitioner’s focus must be to “manage the process, not the outcome. And that is a huge responsibility.” Over the course of the workshop, expert practitioners mentioned that it is a responsibility that includes deciding not to go forward with the restorative process when necessary.

Joan Cass, past President of ADRIO’s Board of Directors, and Benoiel consider it essential that restorative practitioners take a trauma-informed approach. They both described some of the important biological, psychological and emotional impacts of trauma, including “amygdala hijack” and effects on memory and the ability to process information or emotion.



Cass called trauma-informed practice “an attitude—it’s a way of looking at the world and situations where harm has been done.” In her experience, many such situations involve “no one clear victim or perpetrator.” She said, “It’s usually that people have been harmed and the harm has taken on a life of its own. It has escalated and bounced between people with harm being done back and forth.”

She encouraged practitioners to take an active interest in learning what appetite and readiness participants have for addressing their trauma in the context of a restorative process, because “there is an ideal time, but it’s not a prescribed time. It’s not one week or two years—it depends.” She added, “You have to have distance from the event, you have to have some healing before trying to restore.”

Cass laments the tendency to try and “hurry the process,” particularly on the part of institutions. She noted that while there is a new and spreading awareness that “trauma is a physical reaction to an event” and that there are accompanying natural healing processes, there is “less and less tolerance for the time it takes people to go through those necessary processes.”

Cass added that the restorative practitioner must monitor their own reactions to ensure they recognize and address any compromising effects they may experience through being the process facilitator and potentially becoming triggered themselves.

According to Benoliel, “restorative work is probably the most addictive dispute resolution process.” She warned that “when you see transformation happen right in front of your eyes, it’s an endorphin rush. And when it doesn’t happen, you can get depressed. You have to be careful of that.”

Benoliel offered that by educating themselves about the many dilemmas, controversies and myths (in the sense of “partial truths”) associated with restorative processes, practitioners will be better prepared to capture the benefits and avoid possible pitfalls.

Pramila Javaheri, ADRIO’s Executive Director, conveyed after the workshop that “ADRIO sees the growing interest in restorative services, and we are committed to offering our membership and guest learners the best trainings and supports available in this important field.”

## The author



Mary Korica 

Freelance writer, speechwriter and editor  
[www.marykoricaspewriting.com](http://www.marykoricaspewriting.com)



ADR Institute of Ontario

# Elevate Your ADR Practice

Take your ADR Career  
to the next level

**Join ADRIO Today!**

We assist our members, and users of ADR services, by providing information and education, maintaining high professional standards and implementing a structure to ensure members adhere to those high standards

To view the benefits of being a member,  
visit:

[www.ADR-Ontario.ca/join](http://www.ADR-Ontario.ca/join)





ADR Institute of Ontario

### **More ADR Update**

To read past issues of ADR Update, [click here](#).

### **Submit an Article**

Are you a member of another ADRI affiliate or a non-member?

We encourage you to submit articles too. Please visit our website for our Author Guidelines or email [events@adr-ontario.ca](mailto:events@adr-ontario.ca)

### **Advertising**

Please visit our website for our rate card or email [events@adr-ontario.ca](mailto:events@adr-ontario.ca)

### **Contact ADRI**

437-219-7059

[info@adr-ontario.ca](mailto:info@adr-ontario.ca)

[www.adr-ontario.ca](http://www.adr-ontario.ca)

The opinions expressed in the articles featured in this newsletter are that of the respective writers and do not represent the views of The ADR Institute of Ontario.