

Practical Tips for Conducting Digital Mediations

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A New Paradigm

If we are going to engage in mediating at a distance using digital conferencing software – a certainty at the moment, but probably increasingly likely anyway – we need to be aware of some particular needs and potential pitfalls of our new toolkit. And four come immediately to mind.

Tip 1 - Input & Output: Know Your Platform

The first – and probably most obvious – involves the need to be across the technology: we do not want the wrong party to be privy to confidential chatter; nor do we want to offend anyone – at least inadvertently. And an important part of this involves having control of the breakout space – which is an elemental feature in a mediation. We must be vigilant against human error and double check that cameras are off and mics are muted when appropriate; and that only the intended parties are messaged during proceedings.

Further, efforts should be made to ensure the adopted AV technology is the best available, and that all participants can see and hear the nuances of the communication. And a simple step such as a 15 minute tech test before formal proceedings commence will assist and avoid unnecessary tension between participants. I also suggest that we connect devices via Ethernet cable rather than using WiFi, and check that settings are set to HD or 4K if possible.

Also, be aware that, unless you are the host, we cannot be confident that confidential conversations are not being recorded by covert means – although no responsible participant would engage in conduct of this sort. For instance, when using software such as Zoom, the meeting host has the capacity to determine whether all written 'chat' messages between individuals or groups are recorded. One potential solution is to include a clause in the Mediation Agreement prohibiting the use of covert technologies to record any part of the process, without the agreement of the participants.

So, hone up on your familiarity with the chosen platform.

Tip 2 - Hominum x Machina

The second point to notice is that mediating at a distance is, obviously enough, more remote or removed for the participants; so there is a loss of intimacy or immediacy. The consequence, it seems to me, is that we all have to be more astute to the tell-tale personal signs of the participants. These "tells" might be obvious in person, but will be less obvious with a remote communication. So our senses may need to be more finely tuned.

Also, as conversations tend to flow more naturally when conducted in person, we need to ensure that sufficient airtime is left for participants to speak and not to feel excluded. This is probably just a recognition of the fact that there is a more natural ebb and flow with conversations conducted in person. And as that advantage is lost when the process is remote, we need to guard against any potential disadvantage by ensuring that everyone is included in the process. We do not want any participant to feel disenchanting.

Tip 3 - Oiling the Works: Simultaneous Document Management

The third point is practical, but important: we need to ensure

the simultaneous drafting, amendment and sharing of documents – whether, I suppose, via Dropbox or Google Docs. We do not want the process to suffer from a loss of continuity; and we also need to ensure that the process remains fluid. So, once again, we need to recognise the practical realities and to be across the technology necessary to achieve those.

Tip 4 - Lights, Camera, Action

The final point is also practical: we need to become at least a little skilled in the use of camera technology: not positioning it too low and shooting up; and not positioning it too high and shooting down. The risk is that expressions are lost – which we want to avoid. So, think about the position of the camera and who is actually in the frame of the shot. And to the extent that this means honing our directorial skills, we should do it.

Happy mediating – whether at a distance or otherwise.

For those undertaking remote mediations facilitated by Level Twenty Seven please consult our '[Best Practice Guidelines](#)'.

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