The Four Models of Mediation

by

Margaret Drews

There is considerable diversity in the practice of mediation internationally and within countries. Mediation is used for a diverse range of purposes. It operates in a variety of social and legal contexts. The mediator usually possesses different types of training, cultural backgrounds, skills levels and operational styles. These factors all contribute to the challenge of trying to define and describe mediation practices.

The Core Features of Mediation

The core features of mediation highlight the flexibility in mediation practices:

- Mediation is a decision making process;
- in which the parties are assisted by an outside intervener, the mediator;
- who attempts to assist the parties in their process of decision making;
- and reach an outcome to which each of them can assent;
- without the mediator having a binding decision making capability.

Four Models of Mediation

The four models of mediation are used in different jurisdictions and subject areas:

- Facilitative mediation- where the parties are encouraged to negotiate based upon their needs and interests instead of their strict legal rights.
- Settlement mediation- where parties are encouraged to compromise in order to settle the disputes between them.
- Transformative mediation- where the parties are encouraged to deal with underlying causes of their problems with a view to repairing their relationship as the basis for settlement.
- Evaluative mediation- where parties are encouraged to reach settlement according to their rights and entitlements within the anticipated range of court remedies

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1 Boulle L, Mediation: Principles, Process, Practice, (2nd ed) Lexis Nexis Butterworths, Australia, 2005
3 Spencer D and Attobelli T, Dispute Resolution in Australia: Cases, Commentary and Materials, Lawbook Co, Australia, 2005
4 Spencer D, Essential Dispute Resolution, (2nd ed) Cavendish, Australia, 2005
5 Spencer D, Essential Dispute Resolution, (2nd ed) Cavendish, Australia, 2005
6 Roberts S, ‘The Three Models of Mediation’ in Ringwall and J Eekelaar (eds), Divorce Mediation and the Legal Process (1988) 144 refers to minimal intervention, directive intervention and therapeutic intervention model of family mediation corresponding respectively to facilitative, settlement and evaluative and transformative mediation.