

FEEDBACK NOTES

These notes I hope will encourage parties to complete a feedback form following each mediation. Feedback is important in improving standards amongst mediators.

How do we rate mediators?

At one time the trend seemed to be to assess a mediator on his or her success rate whether or not the parties were satisfied with the outcome. Thus the drive to achieve a settlement at all costs might tempt a mediator to misuse the influence that they could have over the parties. Recent studies of effective skills and techniques of experienced commercial mediators are revealing in what users most appreciate from mediators¹. Here are a few key markers that users look for when evaluating how your mediator performed:

- **Rapport** with the parties and their representatives – the parties must feel comfortable with the mediator helped by his or her ability to approach people on a very human level. We talk in terms of empowering the parties and drawing them into the process. That begins at the very first private session when the parties need to feel at ease with the mediator and at ease with the process.
- **Inspiring trust** – without that there is no rapport. There is a habit amongst representatives to choose mediators who are specialists in the relevant area of the dispute. I put that pretty low down in the list of priorities although it might make the client more comfortable to know that I practice as a construction lawyer or I sit as a trustee on various discretionary trusts. But essentially its less ‘what you know’ and more ‘how you seem to be’. Fairness and impartiality are as much part of the mediators requirements as they are of any neutral appointment.
- **Communicating with clarity** – interventions in both the joint and the private meetings must be carefully honed down to inspire that trust and to develop that rapport. Knowing how to help best manage expectations, to move parties from the exploratory stage to negotiate, to develop options that might well be outside what were expected and then closing the gap – all these involve our careful wordcraft. One unfortunate intervention can like snakes and ladders ruin your efforts thus far.
- **Control and professionalism** – you should lastly perhaps measure how the mediator controlled the process. Angry and frustrated parties and indeed representatives take some careful handling. Being incisive when you need to be and controlling how things go is important – after all a good mediator should be able to firmly control and wear kid gloves at the same time.

¹ Amanda Bucknall’s article published on <http://www.mediate.co.uk/news/full.html?id=30>