



Commercial Mediation Training

Synopsis of Training Programme

The Academy of Experts

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To train or not to train? Full steam ahead ADR

Why should you subject yourself to training in the relatively new art and science of ADR? And if you do, what can you expect?

There are in this day and age relatively few 'naturals'. That is somebody who without any training is still regarded as a top performer. The reasons for this is are mainly to be found in the complexity of modern living, the abundance of legislation and litigation coupled with the ever-increasing necessity to be seen to be 'PC'. It becomes increasingly difficult to acquire knowledge and skills by observation of others and your own trial and error. Today the 'error' could become the precursor to your own trial and could cost you dearly! This does not imply that attendance on a course will automatically turn you into a star performer.

The Academy first became involved in ADR training at the beginning of the last decade - just a short time after our foundation and the adoption of the objective to promote 'cost efficient dispute resolution'. Since those early experimental days working with the American Arbitration Association, The Academy has developed its own training philosophy and training courses. These have met with widespread approval not just in the UK but also in other countries and continents. One of the reasons for their success is their multi-disciplinary and non-legalistic approach to what is a quasi-legal discipline.

Courses are not run to train (or retrain) lawyers and judges, although most courses include either or both. They are not run to turn experts into lawyer substitutes, although experts are trained on all courses. Equally they are not designed to demonstrate that litigation and arbitration should not be used.

The first morning of the Qualifying Course looks at disputes and the many different way of settling them ~ starting with the club and ending in Luxembourg in the European Court. This in-depth overview which concentrates on relationships is the backbone of the anatomical study of disputes. Like most good training it forces participants to examine and re-examine their own knowledge and perceptions.

We are repeatedly told how valuable this session is giving as it does an insight into conflict and resolution as well as the multitude of routes to resolution. Most people appear to translate the approaches into tools for their normal professional life and are thus able to perform more effectively.

Having looked at Dispute Resolution and ADR as a whole, attention is then focused on mediation. Most people in this country have little or no concept of the mediation process or how the mediator works. To some extent the large industrial disputes still colour minds ~ 'the parties held meetings in separate rooms at ACAS until late last night' or 'Dr Kissinger arrived at Jerusalem in the latest round of his shuttle diplomacy'. Videos of commercial mediations are used to help overcome this. Then with the 'feel' for the real thing work begins on the serious business of training to mediate.

Small interactive group 'discussions' form the basis of teaching. We have resisted the commercial opportunities offered by large courses and concentrated on groups of about ten. This philosophy ensures the full and active participation of everybody. Most importantly it is easier to build an open and close working relationship with just a few colleagues. This is essential because everybody needs feedback. In our society, this tends to be polite and what it is perceived the listener wants to hear. In our training environment, it is what he needs to hear!

The remainder of the two days is taken with teaching and practical role-playing situations so that everybody will have at least dipped their toes into the water by having experienced the various roles that are found in mediation. Few find these experiences what they expected. For some it is easier but for others almost impossible.

At the end of the two days an assessment is carried out to ensure that all participants have the benefit of the tutors experience. Some may decide that mediation is not for them, others may be advised of problems to be overcome.

For the 'survivors', there are two simple projects that have to be completed in the weeks before the Mediators Tutorial. These are important both for the trainees and the tutors.

The Mediators Tutorial takes the whole day and is designed around a mediation. From the beginning of the day until its conclusion the mediation continues with everybody actively participating. The real difference between the tutorial and the real thing is that before every portion of the mediation a detailed planning session takes place. This includes a discussion on the best tactics and techniques for the mediator. After each session the real work is undertaken at the post mortem. What did we achieve? Did we do what we had planned? Why not? Did we achieve things that had not been anticipated? Were they better than our targets? 'Where are we now?' is a common question. And so on

These sessions normally give the opportunity for the resourcefulness of the mediator and usually the innate ability to rationalise.

At the end of the day, an agreement having been reached, the mediator is left with the options for tying the knot. Sometime the most difficult part of the day! For this reason a whole day is devoted to 'Tying the knot'.

In the week before the Assessment & Simulations Day, trainees will have much to ponder as they prepare to run their own mediation. As we are dealing with human beings there is rarely a right way to do things, only wrong ways. This gives mediators too much choice and makes decisions difficult. Presented with a menu with two choices, selection is relatively simple. When diners have a choice of forty or fifty items the restaurant could close before the last guest has finally decided.

The backbone of a Simulations Day is to participate in three mediations each lasting about an hour and a half. Observers observe and rate the mediator's performance as well as that of the other participants. Debriefing and teaching takes place in between and around the other sessions.

Those who receive a Qualifying Assessment, most people require six days training, qualify for the award of a QDR and a place on the Register of Qualified Dispute Resolvers.

There are other training courses held ~ some for mediators, others for users of mediation and lawyers.

For all contemplating involvement in mediation which following the Lord Chancellor's initiatives is set for even greater use, I would suggest that now is the time to train. In the words of a notice which I saw at Detroit airport "Don't wait for your ship to come in ... swim out to it."

Extract taken from
The Expert & Dispute Resolver
Published by The Academy of Experts

Do I want to be a Mediator?

The answer must be subjective. The work is challenging, intense with the pressures of a marathon split into 100 metre dashes! It is extremely satisfying and during the mediation process it is all embracing.

Most people who have undertaken Mediation training find that they are able to use many of the mediator's techniques in their normal professional life – even if they decide against practising as a Mediator. All agree that the training is challenging and rewarding.

Our course is:

- Designed for small numbers – rarely more than 9
- Multi disciplinary – doctors train alongside accountants, lawyers engineers, business people and HR specialists.
- Modular so that you do not have to have long periods away from your work. It is designed to be taken in 3 separate 2 day sessions giving you a chance to assimilate and evaluate.
- Arranged to give both depth and breadth to knowledge whilst maximising practical hands on learning and skill development during more than 12 role plays.

“Those who can do – those who can't teach” is an old adage. Whatever the reality all of our tutors 'can & do'.

Our tutors come from a wide variety of backgrounds and professions. All are practising Mediators.

Our course starts at the beginning with understanding disputes and goes through all aspects including:

- The mediation process
- Mediator's techniques
- The use and building of rapport
- A range of mediation options

This is an established practical skills development course – probably the first training course run by a UK institution. It is a 'living course' constantly updated and upgraded.

Do you want to represent clients at mediation?

There are two approaches open to you.

- You can train as a mediator, learning the skills and mindsets of how mediators operate.

or

- You can take a special 2 day course which gives a general introduction to ADR and mediation. A clear understanding of the process and different approaches that mediators use and how best to operate as a party representative.

Our Philosophy

Mediation is a paradox

- It shouldn't work but it does.
- The Mediator's techniques are a science based art.
- Mediation is skill-based – it is not a Higher Education qualification.
- Mediation skills are best acquired and honed in small groups where individuals can build working relationships with other participants whilst working closely with a small close-knit team of practised mediator tutors.
- Tutors come from differing backgrounds and professions and bring different personalities and approaches and are bound by common high standards.

The Mediator should become a first class mediator before specialising

In the same way that surgeons have first to qualify as doctors we believe it is essential to learn the skills of a mediator rather than just undertaking mediation training for a specialism.

It is relatively easy to learn specialist skills if you have the right foundation. Similarly one of the best ways of learning how to – or how not to – mediate is to be a party in a mediation. This gives opportunities for experiencing and actively witnessing a variety of mediator skills. For this reason we do not employ actors for role playing. All participants experience and learn the true force of mediation from both sides of the fence.

What you need to Qualify

With the increasing shift to the use of ADR it becomes essential to have a knowledge of Mediation and other ADR procedures. Undertaking the Combined Qualifying Course gives participants an opportunity to gain the qualification QDR.

Not yet Qualified?

For those entering into Commercial Mediation Training for the first time The Academy's course provides a fully comprehensive training system for those seeking qualification as a commercial mediator.

Attendance on the course enables candidates to practise and develop their mediation skills through a combination of lecture, discussion and role-play sessions. During the course successful candidates gain an in-depth understanding of how mediation works and the advantages it can bring. Whether as a Lawyer or other suitably qualified expert/professional you will be ready to mediate or represent your clients in mediations.

Already Trained?

If you already hold a Mediation qualification you may be eligible to use this for TAE accreditation. If you wish to follow this route you must apply for exemption from the normal training requirements of attending all 5 Training Modules. To obtain this you must attend a pre assessment module (Module 3 – Mediators Tutorial).

Module	No Previous Training	Accredited Mediators
Module 1	✓	○
Module 2	✓	○
Module 3	✓	✓
Module 4	✓	○
Module 5	✓	●
Assessment	✓	✓
✓ Compulsory	○ Not Required	● Recommended

Following the Mediators Tutorial you are *initially* required only to undertake the TAE Assessment which must be passed before you can gain entrance to The Academy's register and the qualification QDR.

It is, however, recommended that applicants should consider also taking part in Module 5, 'Simulations'. This is optional, however experience shows that candidates who have attended one of these days have a higher success rate in the assessment than those who 'come in cold'.

A form requesting exemption is available from The Academy.

Post Qualification

Having passed the Assessment successful candidates will be invited to join The Academy of Experts as Dispute Resolver members in order to be placed on the Academy's register of Qualified Dispute Resolvers.

Accreditation

The Academy's Mediation Training Course is accredited by the HKIAC as Stage 1 training for General Mediation.

Mediation Course Registration:



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tel: +44 20 7430 0333

fax: +852 3010 1269

admin@academy-experts.org

Mr Dr
Mrs Professor
Miss Other:

Forename _____ Surname _____

Profession: _____

Company/Firm: _____

Address: _____

PostCode: _____

Telephone: _____

Facsimile: _____

e-mail: _____

<input type="checkbox"/>	17-18	Nov	Module 1	2 days
<input type="checkbox"/>	19	Nov	Module 2	1 day
<input type="checkbox"/>	24	Nov	Module 3	1 day
<input type="checkbox"/>	25	Nov	Module 4	1 day
<input type="checkbox"/>	26	Nov	Module 5	1 day
<input type="checkbox"/>	2-3	Dec	Assessment	2 days

Payment Details:

Please make your payment directly to our Account

I confirm that funds totalling HK\$ _____ have been paid on ___/___/___ to:

ARA Conference Services

Hong Kong Shanghai Bank

1 Queens Road

Central

511393241-001

Signed:

Dated:

The Cost

Training Course: HK\$20,000

Assessment: HK\$7,500

Individual Modules:

Module 1 HK\$7,500

Module 2-5 HK\$3,750

3 easy ways to Register

- 1) Fax the form to:
3010 1269
- 2) E-mail your details to:
reservations@aracs.co.uk

Venue

All courses (unless otherwise shown) are held at the Hong Kong Football Club, Happy Valley.

Courses start at 9.00am and conclude at 5.00. Lunch, Refreshments and full Course Documentation are provided on the day.

Cancellations

If you are unable to attend on the day please do send someone in your place.

If you are unable to find a replacement and wish to cancel please let us know in writing not less than 5 working days before the event. In this event an administrative charge of 50% will apply.

Cancellations within 72 hours of an event will not be reimbursed.



ARA Conference Services

EXPERT TRAINING FOR THE ACADEMY OF EXPERTS

Course Outlines

	Day(s)	Page
Mediator Training Course		
Module 1		
The Elements of ADR	1 & 2	12
Module 2		
Tying the Knot	3	14
Module 3		
Mediator's Tutorial	4	15
Module 4		
Simulations & working in a legal environment	5	16
Module 5		
Simulations	6	17
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Module 1

The Elements of ADR

Module 1 - Day 1

Overview

- The Processes and Procedures
- Dispute overview
- The Philosophy of Mediation
- Negotiation Skills
- Mediation Skills
- When to Mediate

During the Day

Introduction & Welcome

- What is Mediation
(Video – American Arbitration Association, Surgeon, Mediator: Michael Shane)

Introduction to the Mediation Process

- Overview of Dispute Resolution
- Relationship between Negotiation, Mediation and Arbitration
- Role and Function of the Mediator
- Stages in the Mediation Process
- Establishing Credibility
- Techniques of the Mediator

Applying the Skills of the Mediator

- A video case study and discussion of the mediation process and how it is used to resolve commercial disputes
(Video – American Arbitration Association, Air Conditioning, Mediator: Michael Shane)

The Opening Statement

- What is it?
- It's Objectives
- Construction

Using Mediation: The Mediator's skills and tools

- Initiating the Mediation
- Establishing a Constructive Atmosphere
- Role and Function of a Caucus

- Addressing Cultural Difference
- Confronting an Impasse
- Concluding the Session

DAY 2

Module 1 - Day 2

Open Forum to discuss:

- Day 1 lessons and problems arising
- The process of mediation
- The uses of mediation

The Opening Session

- Getting started
- Aims and objectives
- Getting out
- The Opening Statement

Participants will demonstrate their Opening Statement followed by evaluations as appropriate.

Mediation Exercises - Case Studies

- Participants will be divided into groups and engage in simulated mediations. These will be followed by evaluation and critique.

During the Day

The Course Director will spend time with each participant individually. This enables any problems or concerns to be aired and dealt with at an early stage.

Summary and Conclusion

Module 2

Tying the Knot

During the Day

Review

- Where are we now
- Questions

Talk

- Constructive, Delaying, Just talk
- Words, words, the choice and use of language, what if, choice/preference

Body talk

- Non-verbal communication
- The dispute as an investment
- The litigation clock, the terrible cost of...

Wrapping it up

- The closing session
- Alternatives
- Walking out
- Handshake
- New agreement

Tying it up

- The agreement
- Consent Awards

Throughout the day

- Opening Statements
 - Case Studies
- Participants perform
Participants engage in simulated mediations:
- acting as a mediator
 - role playing as 'parties' in order to enhance understanding of the mediation process

Module 3

Mediator's Tutorial

Overview

- An enhanced and unconventional group role play
- Getting started though to completion
- A whole day's interactive case

Also suitable for experienced mediators requiring a challenge

During the Day

- The Case of **Big Noise v Mr Squeak** has been referred to Mediation under the BAE Guidelines with an Academy appointed Mediator.
- The Mediation will take place throughout the day and will be used as the 'teaching vehicle' for the Tutorial Course.
- The day will be broken into sessions:
 - Opening
 - First Caucuses
 - Subsequenti Cauci
 - The Agreement
 - The Close.

This is an intensive interactive course with detailed planning sessions and post mortems. Each participant is involved in all stages and processes.

Module 4

Simulations and working in a legal environment

Overview

On this module you will have practical experience under the tutelage of an experienced mediator.

You will have the opportunity to:

- Put into practice all that has been learned
- Try new ideas and methods in an active role-playing environment
- Make your mistakes where they won't matter!

Law for Mediators:

To work effectively as a mediator you will need some knowledge of law and procedure. This module gives a crash course in what you need to know. Equally important whether you are legally qualified or not you will learn how to use this knowledge as a Mediator working with the parties:

- Contract & Tort – their elements in practice
- The legal system – a practical 'flowchart'
- Costs – what they are, how assessments and taxation works
- The mediators legal liabilities

During the day

- Video – Centre for Public Resources, Computer Dispute, Mediator: Steve Goldberg
- Participants will be divided into groups for simulated mediations that will continue throughout the day.
- Critiques and reviews of the mediation will be carried out as appropriate.

DAY 6

Module 5

Simulations, Stimulation, Simulations

The mediator at work – all day!

A Practical Day

This module provides a variety of situations and roles giving maximum opportunity for practical experience in a safe environment whilst under the watchful eye of an experienced mediator and tutor.

More than just practice through role plays this is a positive chance to test your new found skills and positive thinking.

At the end of the day

- The future for Mediation
- What happens next

This module may also be used by experienced Mediators as:

- A repeatable refresher
- An aid to keep 'up to speed'

Assessment

For those wishing to go on The Academy of Experts' Register of Qualified Dispute Resolvers

The Academy's official two day assessment is the vehicle for entrance to the Register of Qualified Dispute Resolvers of the Faculty of Mediation & ADR of The Academy of Experts.

With admission to the register comes Accredited Mediator status and the post nominal QDR.

The assessment process is spread over a two day period during which time there will be participation in at least six role play assessments – with at least two as mediator.

Assessment during this Module will consist of role playing sessions of up to one hundred and eighty minutes, with the candidate taking the part of mediator. Assessment is an independent process and none of the assessors will have tutored any of the candidates.

Assessment Procedure

Overview

Candidates must demonstrate understanding of the material learned in Modules 1 to 5 and general competence and ability as a mediator. They are required to demonstrate knowledge of and skill in utilising the techniques of mediation including listening and exploration of the matters in dispute.

In particular the assessors will have regard to the candidates':

- management of the opening phase of the mediation, including delivery and content of their opening statements, control and use of parties' opening statements, and awareness of the relationships between the parties;
- ability to identify, understand and clearly summarise the parties' positions in the dispute;
- ability to lead the negotiation phase of the mediation, including applying appropriate skills to explore issues, elicit needs and interest, manage caucuses, initiate option generation, reality test and maintain momentum;
- management of the agreement phase of the mediation, bringing the parties to the final detail of their agreement and assisting them to reach agreement and – if appropriate – drafting an appropriate settlement document.

NOTE: For completion of a satisfactory assessment **it is not necessary** for the mediation necessarily to reach a settlement, and candidates will not be disadvantaged if time does not allow them to reach or complete the settlement stage.

Assessors will have regard to: the mediators' general demeanour towards the parties, including suitability of dress and language for a commercial dispute, ability to instil confidence in the parties, control of the proceedings, maintenance of appropriate confidentiality between parties, perceived neutrality and lack of overt value judgement, and general likelihood of arriving at a settlement.

Assessment procedure

There will normally be two assessors – both experienced mediators and assessors – observing each role play session. Please note that the assessors endeavour to make themselves as unobtrusive as possible – just because you cannot see them does not mean that they are not listening to you. During your role play, behaviour towards the “parties” outside of the mediation room will be assessed as part of your performance.

There is no “pass-mark”. Assessors are seeking demonstration throughout the session of general competence and sensitivity in the mediation process. A single critical mistake which has the potential of jeopardising the success of a mediation will, in an otherwise adequate performance, produce an assessment of “unsatisfactory”.

How is achievement recognised?

The assessors' recommendations are passed to an assessment committee consisting of at least three people. Successful candidates are eligible to apply for entry on The Academy's Register of Qualified Dispute Resolvers as a Mediator. This will include completion of the appropriate application form and the provision of suitable referees. Candidates' submitted case study may also be taken into account, as may - where the assessment committee deems it helpful - tutors' comments on candidates' previous course work performance or candidates' demonstration of their understanding of the mediation process while role-playing “parties”.

Candidates will receive written feedback covering the areas of competence where their performance needs improvement. Unsuccessful participants will be advised as to which areas of performance or knowledge they need to address before presenting for further evaluation. Any additional learning requirements will be identified to such candidates.

The decision of the assessment committee will normally be final. In exceptional cases a candidate may request a review of the decision. The review committee will be chaired by the Dean of the Faculty of Mediation and ADR, who may take into consideration any matter he sees fit. There will be no further appeal from the decision of the review committee.

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