M9937: Theory and Principles of Conflict Resolution

"STONE SOUP" Mediation Case Study

For this assignment you are asked to interview a mediation practitioner about a recent case and produce a written case study. Detailed guidance is below.

WORD LIMIT: 2,000 words.

SUBMISSION DEADLINE: 6 November 2017

MORE INFORMATION ABOUT THE STONE SOUP PROJECT:
http://law.missouri.edu/drle/files/2017/07/SS-website-vision.2.pdf

FINDING A PRACTITIONER

The best place to start is the Scottish Mediation Register:
https://www.scottishmediation.org.uk/find-a-mediator/ . If alumni agree to be interviewed we will post their details on Myplace. If someone has already been interviewed please do not ask them to be interviewed a second time.

PRIOR TO THE INTERVIEW

Send the practitioner the Participant Information Sheet and Consent Form (at the end of this document). Ask the practitioner to read it and sign the tear-off consent form to return to you at the interview. Explain that you will be happy to answer any questions the practitioner may have in advance and that the interview will take no longer than an hour.

Once the interview has been arranged, please notify the course administrator (pauline.mckay@strath.ac.uk) of the time and venue. This will enable her to ensure that practitioners are not being asked repeatedly for interviews. It is also a sensible precaution to protect your personal safety.

The goal of the interview is to gain the best possible understanding of a mediation case. You will need to enlist the cooperation of your interview subject to disclose potentially sensitive matters. This is similar to the process when mediators and other professionals conduct initial interviews of clients. You need to gain your subject's confidence that you will

protect the confidentiality of the information provided and that you will treat him or her with understanding and respect.

This process begins with your first contact to ask the person to be interviewed. You should assure him or her that you will be careful in protecting confidentiality and anonymising data. It is also important to respect the subject's time. Try to accommodate his or her preferences as much as possible in scheduling the time and manner of the interview. If it is more than a week or two in the future, send a reminder email or text a few days in advance. Be on time. Being late is an immediate sign of not respecting the subject's time. If you need to reschedule, give the subject as much notice as possible.

CONDUCTING THE INTERVIEW

Work on developing rapport from the start. Express your appreciation that the person has taken the time to talk to you. Explain that the interview will last no more than an hour and check that's OK. Sometimes things come up and people don't have a full hour. If so, adjust your interview accordingly, reschedule, or plan to finish at a later time.

Start by explaining who you are and why you've asked them to be interviewed. Remind the subject that you will not disclose his or her name, nor that of anyone else mentioned in the interview. Explain that the case study will be fully anonymised. Also tell the subject that they can decide not to have the interview submitted to the database and that you will ask him or her about this at the end of the interview. To further protect confidentiality, ask the practitioner not to use clients' names; instead they can use generic descriptions such as client, solicitor, small business, etc. If they use someone's name, don't record it in your notes. Ask the practitioner not to provide information that could incriminate anyone. Then ask if they have any questions and, if so, answer them.

Conduct the interview in a conversational manner rather than simply asking a list of questions. Ask follow-up questions when appropriate. Use plain English as much as possible and avoid using mediation jargon. If there's a good reason to use this terminology, define it clearly and make sure that the person accurately understands what you mean.

AVOID:

- Expressing judgements about the story
- Criticising the subject or his or her clients
- Agreeing with the subject's perspective

DO:

- Convey that you understand, using verbal and non-verbal communication

- Summarize your understanding to ensure that it's accurate
- Ask the subject to clarify anything you don't understand
- Pursue interesting or novel angles that emerge from the conversation

The heart of this assignment is to get a thorough and accurate understanding, particularly of the sequence of events. Pay particular attention to anything that seems unusual or surprising. It's a good idea to start at the beginning and, after each event, ask what happened next. It may be a good idea to defer asking follow-up questions until after you finish learning the chronology so as not to distract from the case outline.

If your subject is uncomfortable answering a question, do not press him or her to do so. Try rewording it or just move on. Similarly, don't press anyone to provide any documents they don't want to provide. Finally, ask if there is anything important that you have missed. Finish by thanking the subject for his or her time and support.

TAKING NOTES

Note key points, recognising that you won't be able to take verbatim notes. It's a good idea, however, to note any striking or vivid phrases and put them in quotation marks. In general, use single letters to refer to individuals or entities; this will help you take notes faster. Remember to maintain eye contact. If you conduct the interview by phone, you could use speakerphone and type your notes into your computer. It's OK to pause to keep up with note-taking; just let the subject know you need to stop for a moment and write your notes.

As soon as possible after the interview, review your notes and fill in any important points that you may have omitted. Do this promptly because memory fades quickly.

RECORDING

Do not record the interview. Part of the purpose of this exercise is to give you practice in conducting interviews and these are rarely recorded. In addition, listening to, transcribing and analysing interviews is very time-consuming.

THE CASE STUDY

The case study should be written in **single spaced Word document.**

The precise order of the case study is up to you but it should contain the following elements:

- A brief description of the interview subject including information that would help readers to assess the reports. The papers must not include information that could identify the subject.
- Information about the parties; e.g. their relationship, if any, prior to the dispute, the level of cooperation or hostility, their apparent interests.
- A chronology of the case, from the practitioner's first contact with either party, to any intake work, to the mediation itself, including any settlement, and any follow-up information the practitioner can provide
- The practitioner's reflections on their conduct of the case and any other factors that may have contributed to the outcome
- How this case compares to other cases
- Whether the practitioner followed a particular mediation model or approach; if so, what did this mean in practice?
- Any other issues that emerged from the interview

When referring to places please use a general description; e.g. small town, West of Scotland or major city, Scotland. When referring to amounts, use value-bands; e.g. between £1,000 and £1,500. If one party has reduced their claim by a certain amount, use a percentage rather than a figure.

COVER SHEET

In order to be entered in the database the report will need a second cover sheet (NOT the Strathclyde cover sheet). The cover sheet should contain the following:

- A filename in the format: Teacher last name – year – student last name. For example, "Irvine – 2017 – Smith."
- Criteria for selecting the subject.
- Confirmation of the subject's permission for submission to the database.
- Confirmation of your permission for submission to the database.

PARTICIPANT INFORMATION SHEET -
*   MEDIATION CASE STUDY*

My name is …… and I am a student on the
LLM/MSc/Postgraduate Certificate in Mediation and Conflict Resolution. One of our assignments requires us to interview a mediation practitioner about a recent case and produce an anonymised case study. If you agree to take part, the interview will last no more than an hour and can take place at a time and location of your choosing. If your place of business is outside Glasgow the interview may take place by telephone.

Participation is entirely voluntary and you may withdraw at any time without giving a reason. All data will be anonymised. Your name and the names of your clients will be replaced with a code, and it will not be possible for you to be identified in the case study. With your permission the anonymised case study will be submitted to University of Missouri's 'Stone Soup' database which will be used for further research into mediation.

The Course Director is Charlie Irvine, Senior Teaching Fellow in University of Strathclyde Law School. If you would like to contact him to find out more about the assignment he can be contacted at
charlie.irvine@strath.ac.uk or on 0141 548 3585.

If you have read and understood this information sheet and you would like to be a participant in the study, please sign the tear-off participant consent form below and return it to me at the start of the interview.

NAME: …….   Email: ………

TEAR HERE……

PARTICIPANT CONSENT FORM – MEDIATION CASE STUDY
I have read and understood the information sheet and have had an opportunity to ask questions about my participation. I understand that I am under no obligation to take part in this study. I understand that I have the right to withdraw from this study at any stage without giving any reason.

I agree to participate in this study: YES/NO (delete as appropriate)

I agree to the anonymised case study being submitted to University of Missouri's 'Stone Soup' database for further research: YES/NO (delete as appropriate)

Name of participant: _____

Signature of participant: _____