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To Co-Mediate or Not to Co-Mediate — That is the Question

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To Co-Mediate or Not to Co-Mediate — That is the Question

Abstract

Co-mediation exists as a method of working that can be very practical in a wide variety of circumstances. Some would argue co-mediation is the best practice method, while others would say it is unnecessary to involve two mediators. My original training as a mediator in 2002 was in a comediation method with the NSW Community Justice Centre. I found it to be a great way of working for several reasons. When I started working as a Family Dispute Resolution Practitioner ('FDRP') in 2007, a solo mediation method was the standard practice in my workplace, and comediation was an option only where the practitioner assessed that there was a need for two mediators. Over fourteen years I have experienced many ways of working within co-mediation methods. Some have been very good and some have not worked so well.

Keywords

professional reflections, advantages, disadvantages

Practice Note:

To Co-Mediate or Not to Co-Mediate – That is the Question

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I Introduction

Co-mediation exists as a method of working that can be very practical in a wide variety of circumstances. Some would argue co-mediation is the best practice method, while others would say it is unnecessary to involve two mediators. My original training as a mediator in 2002 was in a co-mediation method with the NSW Community Justice Centre. I found it to be a great way of working for several reasons. When I started working as a Family Dispute Resolution Practitioner ('FDRP') in 2007, a solo mediation method was the standard practice in my workplace, and co-mediation was an option only where the practitioner assessed that there was a need for two mediators. Over fourteen years I have experienced many ways of working within co-mediation methods. Some have been very good and some have not worked so well.

This practice note explores the practical benefits and challenges of co-mediation and offers several practice tips. It begins with a professional reflection, followed by consideration of what co-mediation is, and why a method of co-mediation might be chosen. The practice note then offers a new way of defining co-mediation, arguing that the method requires a specific skill set. It argues that preparation is key in successfully co-mediating, as is the practice of debriefing. It concludes with some final tips to support more effective co-mediation practice.¹

* Family Dispute Resolution Practitioner, *Relationships Australia*, Wagga Wagga, NSW, Adjunct Lecturer, Charles Sturt University, Bathurst, NSW. I would like to acknowledge all the mediators I have worked with, for each one has taught me a lot about mediation and helped me to develop skills and to self-reflect. I also acknowledge the support of colleagues who have generously shared their knowledge in peer supervision, and my supervisors and teachers for their wisdom, support and guidance. Many thanks to Mieke Brandon for her helpful comments on an earlier version of this practice note.

¹ This practice note is grounded in personal professional experience and also informed by the following resources: Bianca Keys, 'Co-Mediation: Positives Pitfalls and Lessons Learned' (2009) 11(4) *ADR Bulletin* 77; Lela P Love and Kimberley Kovach, 'ADR: An Eclectic Array of Processes, Rather Than One Eclectic Process' [2000] *Journal of Dispute Resolution* 295; Lela Love and Joseph Stulberg, 'Practice Guidelines for Co-Mediation: Making Certain That "Two Heads Are Better Than One"' (1996) 13(3) *Mediation Quarterly* 179; 'Draft Co-Mediation Guidelines for RAV' (Draft Guidelines, Relationships Australia Victoria, 2011); Relationships Australia Canberra, 'Centre to Centre — Telephone Family Dispute Resolution Guide' (**Guide, Relationships Australia, 2015**); **Josefina Rendon, *Interdisciplinary Co-Mediations: The Good, the Bad and the Imago*** (July 2008) Mediate.com <<http://www.mediate.com/articles/rendon5.cfm?nl=167>>; Ruth Charlton, Micheline Dwedney and Geoff Charlton, *The Mediator's Handbook — Skills and Strategies for*

II A Professional Reflection on Co-Mediation

This practice note begins with three professional reflections on my own experiences of co-mediation. The first experience involved working with a gentleman in my first year of mediating whose style involved intervening continually in the conversation, much like an over enthusiastic traffic controller. He reflected, reframed and paraphrased, using statements such as ‘What I hear you saying is ...’ He also formally invited responses: ‘Would you like to respond?’ There was not much direct communication between the parties and I could sense they were becoming a little frustrated (as was I)! I interjected and suggested that perhaps we could move onto the next point. My co-mediator turned to me and said, ‘No, I think we are really getting somewhere here.’ I rolled my eyes and the party to my left said, ‘Do you two want a mediator?’ I was mortified and ashamed at my indiscretion, and throughout the rest of the session I just supported my co-mediator as he ran the process his way. Although the mediation was effective and the parties reached an outcome that was acceptable to them, I did not feel good about how the communication-dynamic unfolded, and my ego was a little bruised. I like to think my approach to supporting parties in mediation is to give more space to their communications, to be less interventionist and more questioning and curious, and to provide scaffolding for the parties to talk to one another, rather than intervening after almost every comment. I did not give any feedback to my co-mediator about what I was thinking, feeling or experiencing — I just wasn’t confident about how to approach this. I have since worked with a lot of mediators like this — mediators who spend a lot of time talking and not much time listening. I find that style difficult, but I can live with it when I focus on the service provided to the client, rather than getting hung-up on my preferred style of working. I also suspect, now that I am more experienced, that I too can be dominating in my preferred ways of working. I still find it difficult to give and receive feedback when this dynamic plays out in a mediation session.

The second experience pertinent to this practice note also occurred in my first year of mediation practice. This experience occurred during the debriefing stage of the process, when we were mapping the stages of mediation and considering what worked well, what did not work so well, and what we could have done differently or better. I attempted to give my co-mediator some feedback on how I thought her recounting of the opening statement went. I thought she had missed some vital points because, rather than reflecting accurately what the parties had brought to the table in their opening statement, she had summarised and paraphrased what she saw as

Practitioners (Thomson Reuters, 3rd ed, 2014); Community Justice Centres, ‘Mediators’ Manual’ (Policy Document, Department of Justice, New South Wales Government, 2012); Linda Fisher and Mieke Brandon, *Mediating with Families* (Thomson Reuters, 2nd ed, 2009); ‘National Mediation Accreditation System’ (Standards, Mediator Standards Board, 1 July 2015) <<https://www.msb.org.au/sites/default/files/documents/NMAS%201%20July%202015.pdf>>.

the relevant points. I believe this is a disservice to the client. It is not for the mediator to determine what will be discussed or given more weight in the discussion — for me that is for the parties to decide. When I tentatively suggested that perhaps the recounting of concerns could have been a little more accurate, my co-mediator became very defensive and asked what qualifications I had that would allow me to criticise her. We had trained together and had roughly the same level of experience in mediation. I thought I was being sensitive in my suggestion and in attempting to open up the discussion. However, it landed very badly on my co-mediator. I did not want to be judgemental and yet in offering feedback I am involved in making some sort of judgement — I am yet to find anyone, myself included, who takes criticism well. There is always a reaction, instant or delayed, when criticism is levelled at a person.²

Thirdly, and fortunately, I co-mediated with a wise mediator named Geoff. When we were setting up to co-mediate, discussing mediator roles, and sharing tasks, he said, ‘Keryn, now that we have worked that out, I don’t get too hung up on the roles. *I never let my ego get in the way of a good outcome for the clients.* So, if I miss something, feel free to fill in that gap and I will do the same for you.’ Co-mediating was easy with Geoff; it was calm and flowing, and the transitions were seamless. We did not trip all over each other, and at the end of the mediation we had some meaningful discussion about what was happening at each stage of the mediation. He was genuinely interested in what I was thinking, feeling and experiencing. I didn’t realise at the time, being a relatively new mediator, how valuable that opportunity to think and reflect was, or how well framed his questions were. He encouraged me to share what I was thinking, feeling and experiencing. He thoughtfully shared what he was thinking, feeling and experiencing. This allowed both of us to think deeply about the new awareness we had gained from the experience of working with people in conflict and considering what would be helpful for next time. From that time on I have tried to honour Geoff’s wisdom. I don’t always achieve this, and sometimes my ego, my sense of justice and fairness, and my beliefs about what is right and wrong, override my ability to *respond* rather than to *react*. In this practice note I share my struggle in the hope that it can work to support readers in their practice.

III What is Co-Mediation?

According to Rendon:

Co-mediation is a mediation involving multiple mediators, usually two, who in some way may complement each other by gender, personality, culture,

² In this video Brené Brown talks about being brave enough to go into the arena and reserving a spot for critics: Brené Brown, ‘Why Your Critics Aren’t The Ones Who Count?’ (Speech delivered at the 99U Behance Conference, New York, 2013) <<http://99u.com/videos/20052/brene-brown-stop-focusing-on-your-critics>>.

professional background or other ways in a manner that can improve the quality of both the mediation process and its outcome.³

This definition highlights the complementary role of the co-mediator, with ‘may’ being the pivotal word in this sentence. When co-mediation is done well it offers the opportunity to maximise strengths and minimise weaknesses.

A Why Co-Mediate?

Some reasons as to why a co-mediation method might be chosen include:

- to mentor new mediators;
- to combine skills and expertise;
- to provide a balance of, for example, gender, culture, or age;
- to mitigate risks such as safety concerns and complaint management;
- because it is your organisation’s service method, or preferred way of working; or
- because the parties live a distance apart and a centre to centre co-mediation is set up to support parties in their respective locations.

B Potential Advantages and Disadvantages of Co-mediation⁴

The following list summarises some of the potential advantages and disadvantages of using a co-mediation method.

Advantages of co-mediation	Disadvantages of co-mediation
<ul style="list-style-type: none"> • Modelling of co-operative behaviours. • More ideas: two heads are better than one, and provide a greater potential for perspective taking. • More easily managing practical aspects, such as maintaining eye contact, monitoring engagement, and observing body language and visual clues. • Enhanced accountability to the process, both to clients and to the other mediator. 	<ul style="list-style-type: none"> • Resource intensive: lack of flexibility; time frames and costs can blow-out. • Power imbalances can play-out between mediators. • One mediator may monopolise/dominate the process. • Ego — both yours and the co-mediator’s. • Philosophical differences or style differences that are incompatible/intractable may arise. • Different policy, procedures, and paperwork.

³ Rendon, above n 2, [1].

⁴ This list was compiled during a supervision session at Wagga Wagga Family Relationship Centre with Walter Ibbs on 28 April 2016.

<ul style="list-style-type: none"> • Avoiding process drift, and unethical and inappropriate behaviour. • Displaying transparency: co-mediation necessitates communicating and conferring on steps in the process. • Sharing of the load — both in a practical (roles and tasks) and emotional sense. • Co-mediation can assist with the fatigue of being ‘on’ throughout the entire process by using seamless turn-taking. • Allows for creative and expansive mediation. • Opportunities to learn new ways of doing, saying, and approaching mediation. • Opportunities to expand experience, skills, and knowledge. • Risk management strategy — safety in numbers. • Someone to debrief with, manage vicarious trauma and potential complaints, and assist when impartiality is challenged. • Provides some reflective thinking space. • Balance in gender, personality, culture, and professional background. • Co-mediators can experience the exhilaration of being in sync, on the same page and heading in the same direction. • Co-mediation allows mediators to learn good habits. 	<ul style="list-style-type: none"> • Different skill sets. • Lack of mindfulness: inability to honour differences. • Safety concerns: differences in awareness of safety issues, or inadequate responses to safety issues. • Disunity. • Imbalance in gender, personality, culture, or professional background. • ‘Sitcom syndrome’: no change stasis (or in other words, choosing not to go out of your comfort zone). • Lack of professional challenge and growth — that is, new mediators may be reluctant to go alone or experienced mediators may be content to cruise. • One mediator routinely ‘carries’ the other. • Competition and one-upmanship — ‘My way is the best way!’ • Energy that should be going into the mediation is diverted into managing mediator-dynamics. • Mediators align with clients — two teams are formed. • May potentially cause trauma if one mediator is perceived to act inappropriately or unethically. • Mediators may learn bad habits.
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These lists demonstrate that every advantage has a disadvantage and vice versa. For instance, while co-mediation affords an opportunity to model co-operative behaviour, it also affords an opportunity to model uncompromising, inflexible behaviour. This demonstrates that there is no clear answer to the question of when a co-mediation method will be appropriate. An assessment needs to be made based on the circumstances of the dispute, the needs and interests of the parties, and the mediators' relative skill sets and levels of competency to manage the case.

IV Redefining Co-Mediation Methods

A *The Need to Redefine Co-mediation*

In my view, there is a need to redefine co-mediation within the context of the purpose and the setting for mediation. There are enormous differences between situations where a matter is co-mediated in the same location compared with at a distance, where co-mediators work together regularly compared to rarely, where the use of a co-mediation method is decided upon specifically to mentor an inexperienced mediator rather than some other reason, and when the styles, skills and experience levels of the mediators are intentionally matched to the circumstances compared with situations where they are not. It also makes a difference whether co-mediators are working within one or more sets of organisational policy and procedural guidelines. Within the diverse range of available mediation methods, there can be significant philosophical differences in the ways of working that can be complementary or clash.

In *Mediating with Families*,⁵ Fisher and Brandon sum up four major frameworks for mediation and describe their philosophical underpinnings:

- Problem solving framework: human beings are capable of assuming responsibility for themselves, leading toward greater independence, self-actualisation and autonomy.
- Transformative framework: human beings need validation for the part they play in relationships and in relation to finding peace within themselves and with others, creating a more peaceful world.
- Narrative framework: human beings are capable of responding and acting positively when conversations about differences and cooperation feature more strongly than the theme of conflict.
- Justice Framework: human beings are rational and may need some challenging to move them from their positions so they can make 'just' decisions.

Fisher and Brandon comment that: 'As a practitioner you may find it helpful to reflect on your own particular framework for practice, while

⁵ Fisher and Brandon, above n 2.

acknowledging that you may use different techniques in response to the needs of your clients'.⁶ When I work for one organisation, in which co-mediation is employed as a matter of policy, the training is standardised, roles for Mediator 1 and Mediator 2 are clearly defined, and the expectations for conduct are very clear. Mediators must 'stick with the process' or provide a good explanation for stepping outside the process; the mediator facilitates the process and the parties control the content. The intake and screening processes are separate, so that both mediators are equally impartial and have not had previous contact with the parties. Time is given to setting up and roles are discussed. Tasks are agreed and handed over to the mediator undertaking the task. For example, if Mediator 1 takes down the parties' opening statements, the other mediator simply supports and maintains eye contact with the parties. When Mediator 1 reads back the opening statements, Mediator 2 formulates the agenda. Just before Mediator 2 puts the agenda on the whiteboard, both mediators briefly confer (a glance is all that is usually necessary). I find working with other mediators in this framework relatively easy as there are clear practice and organisational guidelines. Mediators again confer before moving to private session: Mediator 1 will lead with the reiteration of the confidentiality statement, which Mediator 2 will reiterate when the parties return. This helps things to flow smoothly and, if one mediator forgets, the other mediator just backs the process up in an easy and natural way. Mediators keep calm, give each other eye contact, and maintain positive relaxed body language signals. They also complete a full 45-minute debrief after the mediation, mapping through each stage of the mediation and reflecting on what happened and what could have been done differently. Any positives and difficulties with the session are expected to be discussed and reported. The paperwork from the debrief then goes to supervisors for review.

In my experience, difficulties emerge in co-mediation when:

- one mediator or both mediators have assessed or pre-mediated one or both parties, as a result of which different levels of rapport have been established and information shared. In such instances there is more danger of alignment with one party.
- screening and assessing processes differ as a result of different levels of practitioner experience and awareness;
- organisational policy and procedure differ. For example, a mediation I was involved in fell over when it became apparent that organisational policies regarding the presence of support people were very different. The parties became confused and upset as they were given very different information. What I learnt in this situation was that it would have been more helpful to talk to my co-mediator before talking to the party;
- one mediator has not shared vital information with the other;
- insufficient time or effort is given to set-up and debrief;

⁶ Ibid 27.

- the process includes a dual purpose of assisting the parties and mentoring a new mediator, and the boundaries and expectations for the new mediator have not been clearly established;
- the purpose for co-mediating is not clear (For example, a male colleague recently brought to our attention in peer-supervision the problem he had with being called in as a co-mediator under the guise of providing gender-balance when an underlying expectation was that he would deal with male violence. Significant fall-out was experienced as a result of those unmet expectations.); or
- mediators have not had training or experience in how to co-mediate.

I have experienced the most difficulty with philosophical clashes in ways of working, particularly when the articulated philosophy is at odds with what unfolds in the session.

I suggest tailoring the co-mediation method on a case by case basis in-line with its purpose and considering some of the practicalities that impact on choosing a co-mediation method. For example:

- Centre to centre co-mediation: where the parties live a distance apart, different policies, procedures, paperwork and time frames may apply.
- Mentored co-mediation: clearly defined roles, responsibilities and expectations for the mentor and mentee need to be established.
- Balanced co-mediation: where the mediator brings in a co-mediator to provide balance of skills, expertise, gender, culture, age, etc.
- Safety co-mediation – to mitigate risk, provide practical support, manage multiple parties, and assist with termination if necessary.
- Organisational co-mediation – with a clearly defined policy and procedure.

B Co-Mediation Requires a Specific Skill Set

It is vital that co-mediators communicate, collaborate, and cooperate. As an FDRP I spend a lot of time in preparation with the parties (ordinarily parents) explaining the overarching effects on children of parenting styles. If parents can cooperate, collaborate, and communicate (the three Cs) children can do very well and are not usually too stressed; however, when the parties can not cooperate, collaborate, and communicate, they and their children can become stressed and anxious and worried. The same is true of co-mediation. I find being at odds with my co-mediator to be one of the most stressful experiences in my practice — far more stressful than working with clients experiencing difficulties. I think that is mainly because on some level I expect my clients to be struggling with the three Cs, and I expect to use my skills to support their conversation. I have much higher expectations of my colleagues, and that is where I am judgmental. Collaboration takes time and involves consultation and consensus building.

Recently I was teaching mediation students and observing and guiding role-plays. We reached the negotiation/agreement stage and I prompted the

role-playing mediator to check-in with the parties as they mapped back through the agenda, before writing up each clause of the agreement. One role-player (who happened to be a retired judge), playing Party A turned to me and said, 'Keryn, all this talk, talk, talk — is it really necessary? It's quite clear from the discussion what the agreement will be.' I replied, 'Hmm, what do you think the agreement will be?' He rattled off all the things he wanted in the agreement. I turned to the Party B role player and asked, 'Is that how you see the agreement?' She said, 'no way!' I said, 'Let the negotiations begin!'

I have worked with mediators who, as part of their process, do not involve the parties in the agreement formation and instead write up the agreement and send it to the parties. I have experienced this as problematic because the parties are unable to check and correct the agreement during the session, and invariably complain that the agreement does not reflect their needs.

In co-mediation, every stage of the process, set up, and debriefing will involve consultation, negotiation, patience and a willingness to understand another point of view. Good practice in co-mediation is to avoid competing, and to forget about ego and who is the 'best'. Entering a power struggle will not serve the parties' interests or the professional interests of co-mediators.

C Preparation is Key

In co-mediation, the more time and effort that is put into preparation, the better the outcome will be. Get to know your co-mediator; find out what is important for them; be open and transparent in your conversations. I have decided from now on to talk with my co-mediator about my experiences of co-mediation not going so well. Because of these experiences, I ask for the commitment of my co-mediator to update me on any changes along the way, and for us both to agree to a debrief session afterwards. Prevention is better than cure, and I try to prepare for the worst and hope for the best.

Preparatory discussions with a co-mediator should include discussion about the purpose of mediation, each mediators' principles or practice, and their approach to process. For example:

- Arrange a time to talk with your co-mediator and get to know them. How do they like to work? What is important for them?
- Establish the purpose for co-mediation. Depending on the purpose of the mediation, the conversation might cover the practical details of working together and define the expectations you have of each other.
- Obtain the appropriate release of information from the clients and discuss the case notes. Share the case notes if the co-mediation is conducted centre-to-centre, and discuss any concerns about proceeding.
- Discuss the underpinning philosophical principles to which you both subscribe.

- Discuss your background, training and approach. Clarify any concerns or questions you have about styles and how you might approach this.
- Map each stage of the process and determine who will lead each transition stage of the mediation and who will take responsibility for tasks. You may decide that one mediator takes a lead role and the other takes a supporting role. This is helpful when mentoring a new mediator, and it is also helpful to be transparent about that with the parties. A colleague recalls that during a particular mediation session, one party asked, ‘Why are you here? Are you going to do anything?’
- Discuss practical aspects of setting up. For example, if this is a centre-to-centre mediation and distance and time zones are an issue, one should think about:
 - Paperwork, such as agreements to participate;
 - organisational policies, such as time frames for the mediation, and support people;
 - time zones and travelling times;
 - confirming appointments via letters and/or SMS;
 - danger of alignment: in cases where parties are in separate locations, I often suggest that we highlight our role to remain impartial, and that we share the task of recounting the parties’ opening statements by reflecting the statement of the party with whom we are not in the same room;
 - the use of technology as associated difficulties, such as phones and Skype, the difficulties of reading body language, and the need for the co-mediator to relay that information. For example, you might say, ‘As you were saying that Martin was nodding his head in agreement.’
- Discuss building in mediator ‘check-ins’, such as what you will do if either of you have concerns, or think things are not going well.
- Commit to a debrief session. Decide which debriefing format you will use.
- Confer on any follow up actions, such as when certificates are to be issued.

D Debriefing is the Way Forward

Thorough and appropriate debriefing is essential to improve practice in co-mediation. It is an easy conversation when all has gone relatively well. It can be illuminating (if you are open to the feedback) when you thought things went well and your co-mediator did not share your enthusiasm. It is much more difficult if you have both experienced problems. Hence, a thorough debrief can ensure the ongoing wellbeing of practitioners. This may be particularly important when a session has not gone well. Committing to debriefing within a suitable time frame is useful. You may not feel up to it immediately after the session. Giving and receiving feedback takes respect for differences, sensitivity skills and practice.

Reflective practice is a supportive way to learn from the positive interventions demonstrated in the session and the challenges mediators faced during the session to avoid disillusionment and burn-out. In my experience, growing your levels of compassion and empathic skills while maintaining healthy boundaries is essential for good practice in co-mediation work.⁷

In debriefing after a co-mediation it is important to take responsibility for your thoughts, feelings, and actions; no one can make you think or feel anything, and your thoughts and feelings are your own.⁸ Map an agreed debrief format, be kind to yourself and take time to self-reflect first. There are many debrief formats available, some short and some detailed and extensive. They should all involve discussion about what happened, such as what you were thinking, feeling, and experiencing at the time, what your co-mediator was thinking, feeling, and experiencing, and what you want to do about that now.

I have found the Non-Violent Communication method ('NVC') to a helpful format for de-briefing after a co-mediation.⁹ This method comprises four elements:

- Observe: make a clean and clear observation of what happened, without evaluation or judgement.
- Explore feelings: how did you feel? Go beyond your faux feelings — that is, take responsibility for your feelings rather than attribute blame to another.
- Consider needs: what was the need (universal human need) that was met or not met for you through the process?
- Be clear about what you are requesting: What sort of feedback are you requesting of the other person? It may simply be to invite them to tell you what they were thinking at that time, or it may be more detailed or reflective feedback you are seeking.

It is helpful to be prepared for difficult conversations by practicing in a stress-free environment such as peer-supervision and getting some feedback on how your feedback was received. It can be helpful to start with a curious question such as, 'When we were in exploration and we both started to talk at the same time I was thinking ... What were you thinking?' Alternatively, you may ask, 'Just out of curiosity ...'

⁷ See, eg, Brené Brown, *Boundaries, Empathy and Compassion* (2 June 2016) YouTube <<https://www.youtube.com/watch?v=mLTLH3ZK56M>>.

⁸ Consider how the concept of transference affects your ability to take responsibility for your thoughts and feelings. This short video may be useful in that exercise: The School of Life, *Transference* (16 December 2016) YouTube <https://youtu.be/QX_cp1K514E>. See also for example, David Boud, Rosemary Keogh and David Walker, *Reflection: Turning Experience into Learning* (Kegan Page, 1985), and Donald A Schön, *The Reflective Practitioner: How Professionals Think in Action* (Basic Books, 1983)

⁹ See The Centre for Non-Violent Communication (2017) <<https://www.cnvc.org/>>.

Charlton and Dewdney list the following ‘Mediator Driven Problems’ in *The Mediator’s Handbook*.¹⁰ These problems, as well as some of the difficulties listed earlier in the table of advantages and disadvantages, would make good discussion points for practicing sensitive feedback and de-briefing conversations.¹¹ Problems may arise when you as mediator (or you and your co-mediator):

- offer advice;
- define the issues;
- appear to take sides or actually take sides with one party;
- allow yourself to be seduced by one party;
- treat parties differently;
- act on your private agenda (or value system);
- stop listening;
- adopt a controlled rational approach which avoids dealing with parties’ feelings or emotions;
- point to parties’ contradictions;
- are overly concerned with premature settlement;
- use technical language or jargon.¹²

V Final Practical Tips for Effective Co-Mediation

To summarise my experience and the outcome of my professional reflections on co-mediation approaches, I offer the following final tips for effective co-mediation practice:

- Be a better co-mediator: be mindful of your co-mediator; develop ‘mindsight’ and learn to ‘honour differences and create linkages’.¹³
- Be clear about the purpose of co-mediation: Clarify your expectations of each other and avoid operating for contrary purposes.
- Preparation is essential: focus on principles, purpose, process, and practice.
- Communicate, collaborate, and cooperate: At each stage of the process, from set-up to debrief, walk your talk.
- Silence is golden: give space to silence.
- Timing is everything: time interventions *with* your co-mediator rather than against him or her.
- Don’t sweat the small stuff. What is the small stuff? It will be different for everyone. Work out what that is for you. Quality service delivery is more important than your ego, and you can work on your personal self-growth in your own time with your supervisor.

¹⁰ Charlton and Dewdney, above n 2.

¹¹ Ibid 379–83.

¹² Ibid

¹³ Dan Siegel, *About Mindsight* (2010) <<http://www.drdansiegel.com/about/mindsight/>>.

- Do tackle the big stuff: work out what for you is the big stuff and don't leave that unsaid. Mediators will not improve skills or practice if they are blissfully unaware. It takes a lot of skill to give sensitive feedback when things did not go well. Be open to receiving and processing positive as well as negative feedback.¹⁴
- Be open, honest, and transparent. Avoid being brutally honest, as transparency supports authenticity.
- Debrief thoroughly and appropriately. Practice difficult conversations.
- Know your limitations: don't be a solo mediator in co-mediator clothing. If you struggle cooperating as a co-mediator then consider not working in the method.

VI Conclusion

This practice note was written with the intention of stimulating the reader to think about co-mediation: what can go wrong, what can be prevented with preparation, and what can be done to improve for the future. Co-mediation is an intricate dance: done well it is like an expert foxtrot — smooth as silk, the mediators taking turns to lead and follow, two moving as one, making the supremely difficult look effortless. When it is not done well it is a bit like a 'Kath and Kel' demonstration, each person doing his or her own thing, trying very hard but lacking in synchronicity.

¹⁴ Brown, 'Boundaries', above n 7 explains how to set healthy boundaries (what is okay and what is not okay) and grow empathy and compassion.