# The Mediator as Conductor

David Mitchell

*The mediator sits with you*

*Looking and observing,*

*Listening and hearing,*

*Feeling and understanding.*

*With chosen words in language known,*

*With unspoken language in face and body,*

*Baton less, yet conductor-like, she entrains heart-minds*

*and creates synchrony that becomes a new, finished symphony.  
 David Mitchell*

Google Search has a lot to answer for. On searching for articles on Kubler-Ross’ 5 Stages of Grief; I was directed to the fourth movement of Schubert’s Great Symphony No.9 which is considered to contain these 5 stages musically. Directed by Google to YouTube, I watched and listened carefully. First time through, I was unconvinced. Second time, I found myself watching the conductor as I listened. Suddenly, the five stages became obvious and the music reflected each of the stages accurately. The conductor’s charisma, authority, professionalism and implicit knowledge of the symphony entrained me[[1]](#footnote-1). His movements, of trunk, arms, head , baton, and facial movements and expressions entrained orchestra, and audience (in this case, me) such that I moved, heard and became part of that musical piece.[[2]](#footnote-2)

It occurred to me that a mediator is like a conductor. I was not the first to think of this. Google search found a wondrous article by Schechter[[3]](#footnote-3) relating the stages within a mediation to musical beats, tempo, and collaboration (entrainment with the mediator):   
 “No baton is necessary for this conductor (the mediator), but the skills  
 required to wrestle sixty musicians into harmonious compliance are  
 strikingly similar to those of a mediator faced with multiple agendas and the   
 need to create an atmosphere where point and counterpoint combine into a   
 theme all can follow.”[[4]](#footnote-4)

This is an article worth reading.

Schechter describes the musical connections between mediator and mediates whereas this article will focus on *why* this can happen and point to *how* to use this information .

1. **The Neural Response to Rhythmic Sound**

Socially, before speech, words, reading and writing existed, communication consisted of gestures, movements (including dance) and non-verbal utterances. Within humankind there is an integral connection to rhythm, unconsciously expressed in our day-night circadian rhythm, and the rhythmic switching on/off of hormonal release and neurotransmitter production. These internal rhythms are affected by external rhythmic stimuli (e.g. music) in turn affecting groups of brain cells called neural oscillators. Neural oscillations are correlated with the perception of beat, temporal regularity of a sound sequence and tempo. [[5]](#footnote-5)  
 “ A rhythmic stimulus can entrain these oscillators, and the neurons carry on responding at the entrained interval after the stimulus has stopped, exhibiting a “memory” of the interval. “[[6]](#footnote-6)

1. **The Neural Response to Rhythmic Movement**

Strong connections exist in humans between beat and movement. Using EEGs (Electro-encephalograms) Nozaradan outlines how music spontaneously entrains humans to move whilst “movement influences the perception of musical rhythms.”[[7]](#footnote-7)

Kumar and Morrison take this one step further in emphasising that music processing and cognition rely on visual clues : the movements of musicians and conductor determine the quality of the experience.[[8]](#footnote-8) The success of an orchestral piece relies on the conductor employing non-verbal movements like appropriate eye contact, rapid pacing, modulation of voice or mouthing of words and rhythmic body movements with baton, arms, head, torso and via facial gestures and expressions[[9]](#footnote-9),[[10]](#footnote-10).Such mechanisms and manoeuvres entrained the orchestra and the audience. Kumar and Morrison found that the audience was less entrained suggesting they did not experience the frontal and facial movements of the conductor suggesting that the conductor face the audience or a video of the conductor from the front would enhance the musical experience[[11]](#footnote-11).

A singular example of this is the 1987 film, ”Children of a lesser God” wherein a young William Hurt acts out as a conductor and a listener of Bach’s Concerto for Two Violins to explain and share his joy of music to a beautiful deaf teacher (Marlee Martin). His actions became the music and her brain absorbed, processed and became entrained by these visual signals creating a unique musical experience for both[[12]](#footnote-12).

**3.The Mediator as a Conductor**

Mediators, including conductors and orchestra, “ are active carriers that “transform, translate, distort, and modify “[[13]](#footnote-13).

A mediator, conducting a mediation, must rely on presence, trustworthiness, impartial professionalism, and compassionate listening skills. Verbal interaction is primarily restricted to pre-mediation contact, opening delivery, listening to the mediatees’ narratives and collaborating in agenda setting and during each one-on -one breakout sessions . Yet by functioning like an orchestral conductor, and interacting with the mediates as if they were an orchestra, she can at all times use gesture, movement, facial expressions and eye-contact to shift the positions of opposing mediatees towards entrainment and possible resolution.

**How to become a Mediator as Conductor**

All conductors require specific skills training. So, too, do mediators who wish to conduct. The mediator has a range of skills and ‘orchestral pieces or symphonies’ available through :

* Narrative theory
* Transactional Analysis
* NLP
* Emotional Intelligence
* Compassionate reflection
* Esoteric, off-the-shelf systems.

Each of these symphonic techniques will be developed over the next few issues of Pulse Newsletter.

# The mediator as a conductor: Repertoire David Mitchell If a mediator is to be a conductor, then there has to be a repertoire of techniques, akin to symphonies and musical works by composers. I have chosen five pieces to illustrate this concept, which will be published over successive issues of *Pulse*.

**Articles in the series**

1. The narrative symphony : *Lord of the Rings (Stephen Oliver)*
2. **The neuro-linguistic programming (NLP) focus on the senses: *The Ride of the Valkyries in Apocalypse Now***
3. The Transactional Analysis (TA) *trio divertimento for violin, cello and viola*
4. The Emotional Intelligence, EQ experience: *The Organ Symphony (*Saint-Saëns*)*
5. The Compassion arrangement

## **Part 1:The narrative symphony** *The First in the series The Mediator as conductor*

Musical connection: My favourite narrative symphony is Stephen Oliver’s *The Hobbit*, commissioned by the BBC for its dramatisation of Tolkien’s masterpiece.

**The mediatee’s hope**

If I ask you for help

Will my words move you

To listen

To hear

To understand

To accept

So my healing begins   
 - David Mitchell

‘We dream in narrative, day-dream in narrative, remember, anticipate, hope, despair, believe, doubt, plan, revise, criticise, gossip, learn, hate and love by narrative’ [[14]](#footnote-14)

In the opening stages of mediation much attention is given to each mediatee’s ‘story’/narrative summarising their view of the issue/conflict. The two stories are usually significantly different, yet presented with honesty, truthfulness and conviction. From this, the mediator provides a reflective, non-judgemental summary of each speaker’s narrative. Mediators are instructed to listen for salient aspects of each speech and to use any specific language and /or words that were used. If not looked for, nuances, double or hidden meanings, poor reality/perception and or comprehension can be missed. Moreover, finding an acceptable agenda list can be more difficult. Narrative theory can increase a mediator’s recognition-awareness and provide more meaningful agenda items.

Stress, trauma, emotions and life-issues can create a flawed or skewed narrative that can disrupt, divert or destroy a mediation. Williams suggests an appropriate narrative, in life-long practice and actions, provides a coherence, a unity for life.[[15]](#footnote-15)

‘To be ourselves we must have ourselves — possess, if need be re-possess, our   
 life-stories. We must “recollect” ourselves, recollect the inner drama, the narrative,   
 of ourselves. A man needs such a narrative, a continuous inner narrative, to  
 maintain his identity, his self.’ [[16]](#footnote-16)

Knowing what to do and how to do it in such cases, can create a more positive mediation and outcomes.

**Background to narratives**

‘We have, each of us, a life-story, an inner narrative — whose continuity, whose sense, is our lives. It might be said that each of us constructs and lives, a “narrative,” and that this narrative is us, our identities.’[[17]](#footnote-17)

Narratives are socially-constructed, outside-in developments, from parents, social contacts, home, school, community and beyond. From birth onwards every human is establishing, adding, developing and refining a unique narrative. Speech was not required. ‘Preverbal and non-speaking children are able to share an experience, recount an event, and tell a story in collaboration with an intimate adult who provides   
the words’[[18]](#footnote-18)

Before speech came observation, social interaction, imitation, deliberation, calculation and construction of an identity, a self or self-hood. Through trial and error, a child’s movements, body language, expressions, sounds, utterances, and feedback develop into a communicative ‘language’ that identifies and asserts itself as a narrative identity. As a person learns and ages, their narrative changes with the social climate.

**The philosopher’s view of narrative**

The French philosopher, Paul Ricoeur, called this narrative identity ‘self’ or selfhood.[[19]](#footnote-19) He proposed that this uniqueness was internal and protected. Another self (‘Self as another’) was used to communicate and interact with the outside. There could be many variations of this self as another, depending on the interaction/communication/context (e.g. self as another student or sportsperson or speaker, or job applicant or representative or salesperson or manager, lover, partner mother, father etc). Each self as another had authority to act appropriately and had a responsibility to report back to the core ‘self’. Each self as another carried some of the content, knowledge, experience and hopes of the ‘self’ as a narrative but was flexible and capable of change. Should that happen, the core ‘self’ could add it to the inner narrative, creating coherence, or reject it, creating conflict, uncertainty and stress. Many mediatees act out the latter rejection role play.

It is interesting that Ricoeur’s concept was elucidated hundreds of years ago by William Shakespeare, in *As You Like It*, Act-II, Scene VII, Jacques’ soliloquy:

‘All the world’s a stage,  
And all the men and women merely players;  
They have their exits and their entrances,  
And one man in his time plays many parts’

**The sociologist’s view of narrative**

The socialisation of humankind allows interchange with others to allow changes in narratives via adding an embedded metaphor to another narrative and/or a narrative to another metaphor. The interchange occurs through language and the ‘utterance’[[20]](#footnote-20) of words the meaning of which can vary with both inflection and intonation and/or the context of the communication/interchange. A positive incorporation of another’s narrative/metaphor only occurs in a safe, congenial, co-operative context, called ‘speaking with’ or ‘talking with’. Negatives are likely to occur where the conversation involves one person ‘speaking to’ one or more others. This one-way flow can seem to generate external consensus but no or little positive addition to a person’s narrative and a rejection of the metaphor/concept/idea/change and the possibility of a stasis.

In a positive conversation, the metaphors are reuseable ; the narrative is open-ended and everlastingly available for revision/revising/editing. This becomes the culture that can proceed to processes that define the structure of that social interaction/organisation. This is precisely where a mediator can intervene positively . Mediation abounds with metaphors like*: ‘I’ve tried so hard’; ‘I’m determined to win this battle’; ‘It’s not the money, it’s the principle’; ‘You make lots of money, I’m only on a pension’.*

This development leads onto ‘positioning’ whereby an utterance in reply to another person’s speech (utterance) is met by an utterance that is two-fold: a response to the first speaker and a shifting stance or position within the conversation (dialogue).[[21]](#footnote-21) This often denotes an imbalance of power not immediately obvious. Michael White saw this as an example of ‘absence but implicit’[[22]](#footnote-22) — a hidden message like a metaphorical time bomb that, by threatening to explode, sabotages any attempt at resolution. White also made famous the quote   
‘The problem is not the person. The problem is the problem’

I find it easier to talk about the problem being underneath (or behind) the problem.

**The mediator’s view of narrative**  
Ruth Beach[[23]](#footnote-23) found that White’s hidden element was often a person’s stuck position based on one of Kubler-Ross’ five stages of grief: Rejection, anger, depression, bargaining and acceptance. Winslade and Monk poetically cover similar angles:

‘In the shadow of a story of angry exchanges there are moments of reflection, and remorse or quiet calmness.

In the shadows of a story of despair, there are moments of hope.

In the shadows of a story of obstinacy, there are moments of willingness to negotiate

In the shadows of a story of denigration there are instances of respect.

The skill of the mediator lies in catching these moments and inquiring into them.’,[[24]](#footnote-24)[[25]](#footnote-25)

**What to do**

‘Narrative approaches build on an outside-in approach that emphasises how people’s interests, emotions, behaviours and interpretations are produced within a cultural or discursive world of relations and then internalised.’[[26]](#footnote-26)

1. The mediator utilises ‘double listening’[[27]](#footnote-27)…listening to the spoken words and sentences and listening for the hidden message or emotional block that sabotages any attempt at resolution. When the latter are discovered/identified, questioning is directed to these elements/emotions/perceptions. This externalising of the ‘real’ conflict allows both parties to engage in a different dialogue that often leads to a collaboration and on to a quite different ending than expected.
2. Positioning: When discovered, particularly if there is a hidden power imbalance, a mediator could have break-out, one-on-one sessions with each mediatee. In such a way each person can, via subtle questioning of externalised conflicts, come to see that they are operating from a one-up or a one-down position and make internal re-adjustments.
3. Discourse: The mediator can adjust their language, words and metaphors to match the mediatees’ internalised problem, conflict, perceptions and/or expectations. Once externalised the discourse will take a different direction.
4. Alternative story: By defining the problem behind the problem, alternative narratives and courses of action are possible.
5. Longer pre-mediation meetings, more frequent breakout one-on-one sessions can help each mediatee stay on course to a different narrative.
6. Have a mental check-list of narrative inquiry questions as found in Cotter[[28]](#footnote-28), Winslade and Monk[[29]](#footnote-29) and in C. Adam Foster[[30]](#footnote-30)

**Conclusion**

Narrative mediation can be used in most mediations and disputes. By changing the emphasis from external conflict to underlying emotions, cultural expectations and societal perceptions, a new thinking and new discourse can be established. Solving this new problem can be a shared discourse that may improve the chances of a more amicable settlement.

**The mediator as a conductor: Repertoire**

**Neuro-Linguistic Programming (NLP)**

*The second article in the ‘Mediator as a conductor’ series*

David Mitchell

Musical Connection: The second article in the ‘Mediator as a conductor’ series involves our five sensory mechanisms and their effect on thinking, behaviour and communicating. The most evocative musical piece encompassing the senses for me has been the clip from Francis Ford Coppola’s *Apocalypse Now* wherein the flock of helicopters, full of rockets, machine guns and soldiers wielding automatic rifles ‘dance’ to Wagner’s ‘Ride of the Valkyries’ as they destroy a Vietnamese village and its inhabitants.

*The average human ‘looks without seeing, listens without hearing, touches without feeling, eats without tasting, moves without physical awareness, inhales without awareness of odour or fragrance, and talks without thinking.’*

— Leonardo da Vinci[[31]](#footnote-31)

There is some truth and wisdom in da Vinci’s summation of humankind. I once drove fifty kilometres past Stonehenge (one of my bucket list items) because I was thinking of many other things and didn’t see the sign. Neurobiologists estimate we can only deal with between four[[32]](#footnote-32) and seven[[33]](#footnote-33) units of information in our working (short term) memory at once. Interestingly, if da Vinci, who wrote in mirror code, meant us to read the quote in reverse, this would then equate with the 4-7 rule controlling the unconscious uptake, assimilation and storage of our surroundings.

In the early nineteen seventies, Richard Bandler, a linguist, and John Grinder, a mathematician, found da Vinci had set out his version of the ‘da Vinci Code’ in his quote inferring ‘*an internal mental disturbance would change a person’s balance in sensory perception and communication’*. Bandler and Grinder were searching for a

common code or set of rules that eminent psychoanalysts in USA used in their work. Their research focused on the therapeutic interventions used by Virginia Satyr, a family therapist, Fritz Perls, the founder of Gestalt therapy and Milton Ericson, a hypnotherapist. Bandler and Grinder found there was a code, a similarity in language, communication and interaction used by each of their therapists. Two books followed (the *Structure of Magic* Vols.1 & 2)[[34]](#footnote-34) and a new form of psychoanalysis and therapy was born: Neuro-linguistic programming (NLP).

# NLP concepts

1. **The WHAT**

Bandler and Grinder proposed that:

* all memory was sensory initiated (see Chan et.al.[[35]](#footnote-35))
* the primary sensory modes were visual, auditory and kinesthetic (touch) and a small number operated out of olfactory (smell) or gustatory (taste) modes
* people communicate via sensory representative constructs in their speech
* the sensory construct/representation may change within a conversation if communication/conversation is stalled
* a person may use different representative sensory communication modes in different social settings
* most people have a dominant sensory representative speech/linguistic mode especially under stress or duress
* a psychological distress/dysfunction was driven by a memory recall of an earlier stressful event
* the memory recall was usually an unconscious altered perception of reality, often worsening with each flare-up (see Yassa and Reagh )[[36]](#footnote-36)
* people were generally unaware of their sensory linguistic communication.

Bandler and Grinder postulated that the brain operated from a universal modelling process using two brain maps or memory modules:

1. a sensory-based map or memory module incorporating pictures, sounds, feelings, tastes and smells they called ‘surface structure’. This is now part of Yassa and Reagh’s 6 episodic context stored initially in the hippocampus and later redirected to the neocortex. It is this area that would be relevant and useful for mediators.

1. A linguistic representation of the sensory map which they called ‘deep structure’. Such a map becomes distorted and unreal from frequent use but the semantic verbal descriptors (sensory language) remain. (See Fig.2)

Bandler and Grinder had observed that when stressed, people’s narratives would contain one or more of the following masking, disruptive elements:

* distortion;
* generalisation;
* deletion.

Rather than using a narrative theory approach (inside-out) of teasing out a deeply entrenched and often distorted world-view (narrative), Bandler and Grinder decided to focus on the narrative in the now or an outside-in approach. The linguistic constructs, even though initiated years ago, could be identified in the present and changed without tampering with the life story. By changing the internal and external story-telling and the accompanying skewed linguistic pattern, a new narrative replaced the old. Some forty years after the NLP postulates were published, Yassa and Reagh[[37]](#footnote-37) have validated such a premise showing how a new memory module could be reinforced and easily and instantly made available as a model for a new persona and a new behaviour pattern.

2.**The HOW**

How does a mediator conduct an NLP session within a mediation?

1. By identifying, in the present, the dominant sensory language used by each mediatee.

a. Were either or both fixed in the visual mode?

…If so they would use visual words, phrases, word images and metaphors

e.g. ‘I saw red when I received the plaintiff/defendant’s court action’ or ‘Why can’t he/she see what I’m getting at …’

or ‘My car/motorbike looked a mess after he/she crashed into me’ or ‘I can’t see how this matter can be resolved ….’

b. Were either/both acting out from an auditory mode?

…. If so they would use auditory words, phrases, concepts and metaphors.

e.g. ‘That doesn’t sound right…’

or ‘Why won’t you listen…?’

or ‘You are tone deaf’   
 or ‘You are always yelling at me’

c. Were either/both acting out from a kinesthetic mode?

e.g. ‘Living with you is exhausting’   
 or ‘I don’t trust him. He is creepy’   
 or ‘Since this event, I’m all out of sync’   
 or ‘He goes hot and cold whenever….’

Table 1 lists ten of the most commonly used visual, auditory and kinesthetic words.

|  |  |  |
| --- | --- | --- |
| **Visual** | **Auditory** | **Kinesthetic (Sensing)** |
| look | sounds good/bad | exhausted |
| see/can’t see | won’t listen | scared/terrified |
| colour | music | hot/cold |
| view | sounds | intimidated |
| read | noise | pressure |
| picture | volume | overwhelmed |
| watched | deaf ears | can’t connect |
| mind’s eye | arguing | out of sync |
| movie | poor communication | helpless |

Table 1. Common words/phrases in each of the three main sensory communication modes (Extracted from Rubin Alaie[[38]](#footnote-38))

1. Matching language

When the mediator has identified the dominant sensory representation (or mode) for each (and often each mediatee has a different mode), then the mediator can subtly match each mediatee’s mode, pace the conversation and slowly be drawn into that person’s worldview and narrative. Ricoeur called this ‘emplotment’. The mediator can add more positive, realistic and real options to the mediatee’s narrative via linguistic metaphors and images called ‘predicates’[[39]](#footnote-39). Ricoeur held that a person (in this case the mediatee) could ‘meaningfully incorporate existing narratives (e.g. as suggested by the mediator….*brackets added by author*) into their own, through interpretation and emplotment, and through this activity open up new — and real — potentialities for the subject’s being in the world.’ [[40]](#footnote-40)

Matching a mediatee’s sensory representation can be subtly used throughout a mediation but is most useful in the pre-mediation interview, in the agenda setting and within the one-on-one breakout sessions.

iii.Matchingbody language[[41]](#footnote-41)

This is analogous to the entrainment produced by the mediator as a conductor (See ‘The mediator as a conductor’ in *Pulse*, September 2020 [here)](https://www.resolution.institute/documents/item/4395)

breathing pattern: match your breathing rate to that of each mediatee in the premediation meeting, when listening to their initial narrative and during the one-on-one sessions

* posture: adjust your posture in subtle ways to approximate a mediatee's posture
* gestures: use similar hand and facial gesture when appropriate
* eye contact: to be used whenever possible as this is the ultimate way of engaging and holding a person's attention

iv. Matching voice tone.[[42]](#footnote-42)

his matching is very important where mediation is done over the phone as the visual component is missing.

* speed of speech
* volume of speech
* rhythm of speech
* characteristic sounds (e.g. coughs, sighs and hesitations)

**The Neuroscientific validation of NLP**

NLP has been heavily criticised by many researchers as being unscientific, unproven and yet another example of the California self-help movement from the seventies. This may well be at least partly true with the later ‘editions’, ‘models’, or revisions that incorporated NLP into salesmanship, sports, hypnosis and as a quick fix for memory problems. However, at the basic level, Bandler and Grinder’s universal modelling process of surface and deep structure has been validated by ongoing research by scientists into hippocampal memory storage, retrieval and decay over time.

The following is a review of current knowledge relevant to Bandler and Grinder’s basic NLP. Reading it is not mandatory for mediators but a little extra knowledge never hurt anyone. You might see what Bandler and Grinder did; it might sound good to you and you might grasp the concept.

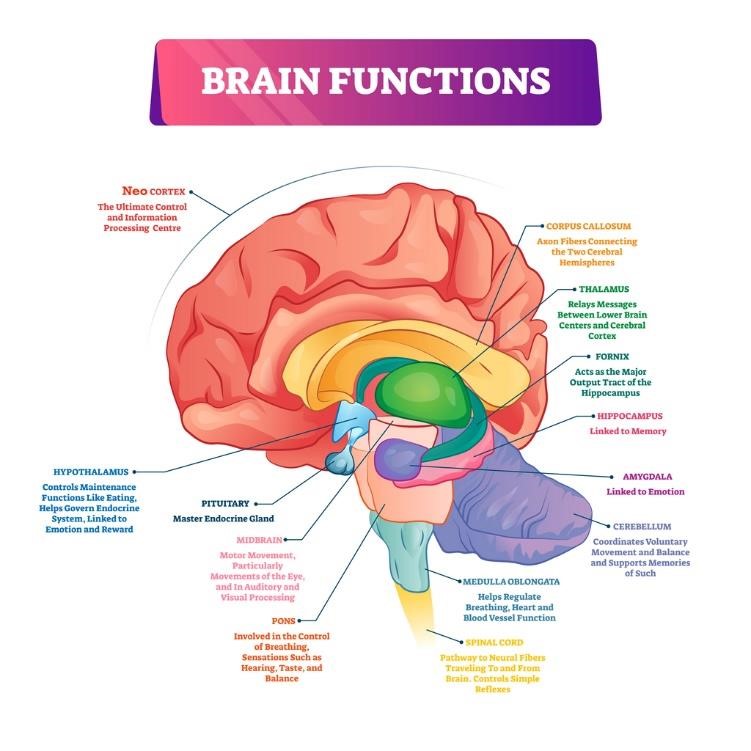


Fig.1 **Memory sites in the brain**

Memory can exist as short-term storage in the hippocampus and/or long term storage primarily in the neocortex (the outer regions of the brain — see Fig.1). Initiation of memory comes from sensory impulses[[43]](#footnote-43) (visual, auditory, kinesthetic, olfactory and gustatory) via the limbic system (hippocampus, cingulate cortex, olfactory cortex, and amygdala) and emotions from the hind brain. The hippocampus encodes these signals as episodic modules that are placed/embedded in the neocortex and other parts of the brain. Similar memory modules overlap each new module. Once this occurs the hippocampus no longer stores that memory. Instead it indexes it, so that if that memory is called for, it can be rapidly retrieved from the neocortex as vivid sensory and perceptual constructs. With repeated memory recall that original module is blended with the overlapping parts of similar modules. It is accurate but changed, recoded by the hippocampus and stored in the neocortex. Over time these blended memory modules can become strengthened and independent of the hippocampus (i.e. can operate directly out of the neocortex). With repeated recall these memory constructs lose their contextural richness and accuracy (decontextualised) and become more semantic (factual, lacking sensory and emotional impact) and often inaccurate. Yassa and Reagh[[44]](#footnote-44) suggest this is a continuum (see Fig.2)

# Memory storage and retrieval

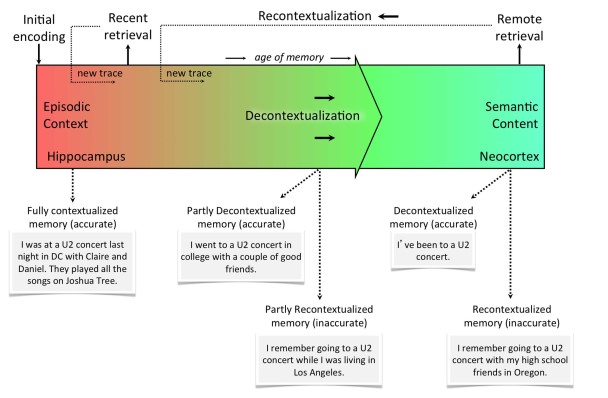


Fig.2. Memory storage and retrieval continuum Taken from Yassa and Reagh[[45]](#footnote-45)

# Conclusion

Bandler and Grinder’s sensory mapping and linguistic communication modes, in a person under stress or affected by a recall of a previous stress or shock match da Vinci’s quote. Such a person would be one who

*‘looks without seeing, listens without hearing, touches without feeling, eats without tasting, moves without physical awareness, inhales without awareness of odour or fragrance, and talks without thinking.’*

Bandler and Grinder cracked the code and showed the world how to rectify the sensory anomalies, leading to better functioning.

# The mediator as conductor Repertoire

**Transactional Analysis***The third article in the ‘Mediator as a conductor’ series*

Musical Connection: Transactional Analysis (TA) incorporates a number of triads of emotional and/or character traits, including the Parent, Adult and Child ego states. I have chosen Mozart's “trio divertimento for violin, cello and viola”, a beautiful piece, with the 3 instruments reminding me of the Father bear, Mother bear and Baby bear family and their interconnectedness.

The concepts embodied in Transactional Analysis are useful tools (musical repertoire) for a mediator. A mediator does not get into the treatment side of TA, she merely uses the information she observes and experiences within a meditation from a TA mindset, to help her understand where each mediatee is coming from. In turn, this process can mediate the mediator's thinking, language (verbal and non-verbal) and demeanor.

In the 1950’s, Eric Berne, a US Army psychiatrist treating Post World War 11 and Korean veterans with what nowadays would be called Post-Traumatic Stress Syndrome (PTSD), found Freudian psychiatry was time-consuming, ineffective, and poorly understood by the average person. Berne was an excellent listener, a compassionate doctor and a practical thinker. He developed a simple to teach and understand psychoanalysis therapy he called Transactional Analysis1.

The starting points useful for mediators are:

* The Parent-Adult -Child (PAC) Ego States (Fig. 1)
* Games people Play2
* The Victim-Persecutor-Rescuer triad (developed by Karpman) 3
* The I’m OK - You're OK Life Positions or Corral (added later by Harris)4

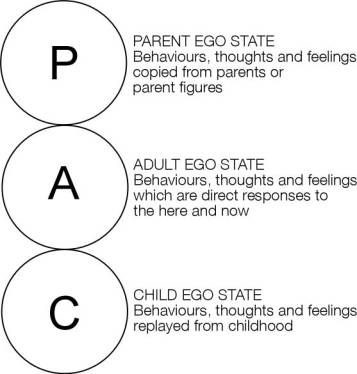


Fig. 1 PAC model

Berne observed that when people interact and begin speaking to each other, they would often switch from one state to another and this would embody a change in language, voice expressions and body language.

The Parent state *contains all the*

* *instructions: “do this”, “don’t do that”, “you must …", “you should …" , this is the way you do it”.*
* *Commands: “No”, don’t”, “stop”, “do what I tell you”, “always vote Labour”, “work hard*
* *Rules: you can’t...”, “ always do ..” , "because I said so”*
* *Thoughts: “You’re good/bad/clumsy/useless/dumb/too smart/ “too shy”, “too noisy”*
* *Feelings “ I hate you”, I love you”, you are a scaredy-cat", “you are brave”, “you are always anxious”, “you make me angry/happy/sad”*

*that a non-verbal young child would hear, feel, react to, remember and recall at will, and at any age. These injunctions, both good and bad, are thought to be dominant in the first five years of age and are recorded (stored ) unedited as the “truth”. The associated verbal tone, inflection and volume plus the gestures, body positioning and facial expressions of the parental figure(s)are co-stored.*

The Child state is created by the internalization of the "seeing and hearing and feeling and understanding" events in a child's early life. Harris paraphrases Aristotle : What is expressed is impressed" The “feeling" component predominates5. If a child is given a caring balanced parenting ( a nurturing parent) an “I’m OK" character trait will develop. “This Free Child (FC) reflects natural, loving, carefree, adventurous and trusting behaviours and is oblivious to the rules.”6 If the child is badly/poorlyl treated ( by a controlling or critical parent or a "pig parent”) then a I’m Not OK" character trait (a rebellious child or a adaptive/suppressed child) will develop.

The Adult state is balanced, rational, data acquiring-processing-storing, and is in constant contact with the Parent and the Child states. The Adult state is in the ‘now’, the present. The fully functioning Adult is acting out Aristotle’s “nous” and “practical thinking” and the Child and the Parent are but echoes of the past7.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Ego state** | **Typical words/phrases** | **Typical voice tone** | **Typical behaviour** | **Typical attitudes** |
| Critical Parent (CP) | That is disgraceful. | Angry | Furrowed brow  Pointed finger  Pounding on table | Judgemental  Authoritarian |
| Nurturing Parent (NP) | I will sort it out for you. | Sympathetic | Consoling touch | Caring  Understanding |
| Adult (A) | When? | Calm  Enquiring | Relaxed  Attentive and aware  Level eye contact | Non-judgemental |
| Adapted Child (AC) | I will try hard.  Thank you. | Placating | Downcast eyes  Vigorous head nodding | Passive |
| Free Child (FC) | That is great. | Expressive | Clear demonstration of feelings | Spontaneous |

**Table 1:** Examples of typical words, voice tones, behaviours and attitudes expressed by the differing ego-states during communication. Taken from Hollins Martin, C.J. (2011). Transactional Analysis (TA): a method of analysing communication. *British Journal of Midwifery.* 19(9): 587-593.

Often both mediatees will act out of different positions e.g. bully-boy ex-husband and sullen one-down Child position from the ex-wife. The aim of the mediator is to subtly via gesture, posture and “adult” language (I.e. conducting) shift both mediatees from an unbalanced Child or Parent state into a shared Adult state.

**Games People Play**

Berne observed that people will often play games when communicating( transacting) with another. By games he meant a two tiered dialogue with an inoccuous message and a hidden often malicious or distorted lifeview message. He gave these games colloquial names like:

“Now I’ve got you, you son of a bitch”

“Poor me”

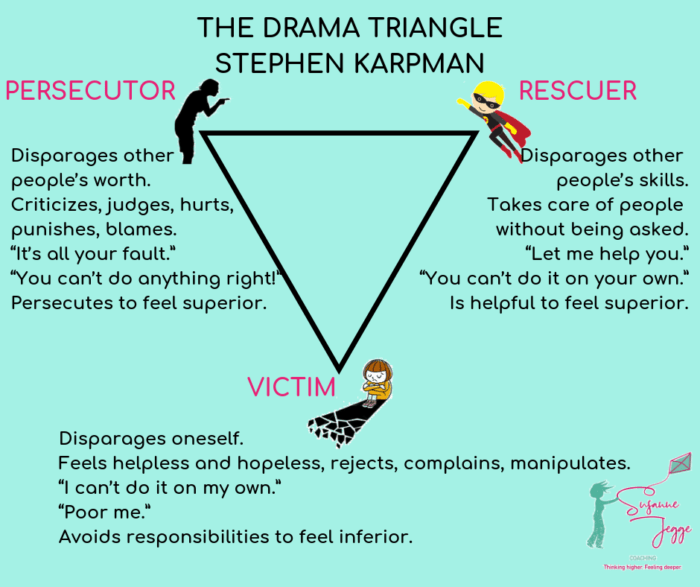
“Let’s you and him fight”

“Look how hard I’ve tried”

“Why don’t you, Yes, but”8

A common game played within a mediation is the “Now I’ve got you” game. Here one mediatee has overspent or is unable to repay for an item and becomes upset when sent a summons for payment. The plaintiff is painted as a ‘bad’/rotten person and is verbally attacked by the debtor mediatee for taking such a vicious, unfair court action. Anything the plaintiff says is disparaged, twisted or turned back onto the plaintiff. The debt is almost forgotten, side-tracked by the debtor’s verbiage and vilification. If the mediator or the plaintiff tries to focus on the debt, the debtor will often resort to a “poor me” game - too poor to pay because of Covid 19 or pension or Low study allowance or not enough to live on. The aim is to not have to pay anything, or at worst, pay a pittance on a protracted time payment scheme. The debtor will often shift from aggravated Critical Parent to wheedling Child mode.

The mediator’s task is to recognise the game and keep returning the dialogue to the debt and an obligation to repay. This often shifts to a “see you in court” game, usually as a bluff or in a misguided view that the Magistrate will believe his/her plight and perhaps even award damages for the stress generated. More work for the mediator in one-on-one sessions

**The Karpman Drama triangle**  
  
**Fig.2. The Karplan Drama Triangle downloaded on 10/12/2020 from** [**https://www.susannejegge.com/en/2019/05/29/drama-triangle-part-2/**](https://www.susannejegge.com/en/2019/05/29/drama-triangle-part-2/)

Karplan’s drama triangle is often played out in mediation with mediatees shifting from one position to another. Power imbalance can lead to one of the mediatees being coerced into a victim role. At this point, the mediator can be sucked into the triangle often as the rescuer of the victim. The stage is for the victim to become the persecutor, and the persecutor becomes the victim. This can then lead to the victim, now persecutor, playing a “Lets you and him/her fight” game (between mediator and the other mediatee).

**The Harris I’m OK You’re OK Life Choices**

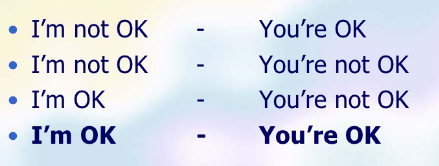


Fig. 3 Four Life Choices. Downloaded 10/12/2020 from <https://www.slideshare.net/gangappalogged/im-ok-youre-ok-by-thomas-harris?next_slideshow=1>

Thomas Harris, a co-worker with Berne, added to Berne’s modelling with his four Life Choices when comparing a person with any other person. The worst position is I’m not OK and You’re not OK. Any position on the left can be compared with any position on the right. The ultimate and best positions are I’m OK and You’re OK. This latter position may seem impossible at the start of mediation. However, with a preliminary warning that mediation is not about winning, nor getting everything, rather, it is about a “walk-away” solution, both mediatees can walk away feeling “OK”.

**Conclusion**

A knowledge of the basic components of TA, within a mediator’s repertoire, will enhance the listening, observational and communication skills that, in turn, can achieve a desired settlement. Articles, books and slide shows on TA are readily available, online. TA is an easy concept to understand and use within mediation, without conducting any psychotherapy.

**The mediator as conductor: Repertoire**

David Mitchell

**Emotional intelligence***The fourth article in the ‘Mediator as a conductor’ series*

Musical connection: Emotional Intelligence (EQ) in a figure such as a leader, a conductor or a mediator both leads and shares, and inspires an interaction with others. At a certain point there is a consensus (entrainment) and a positive mood/flow occurs. This is often called the Aha! moment in mediation. I am grateful to Tasmanian mediator, Gail Cork who suggested this symphony as a ‘stunning example of emotional intelligence in the form of restraint and perfect timing can be found in Symphony No 3 in C Minor by Camille Saint-Saëns. Although it's known as the Organ Symphony, the organ is scarcely heard until 28 minutes into the 36 minute work. When it finally arrives, it does so with a crashing sustained C Major chord which heralds a dramatic shift and brings the entire orchestra in behind it for the final movement”. Watch this happen on YouTube. [[46]](#footnote-46)

**Emotional Intelligence**

The effective negotiator or mediator must take into account not only the economic, political and physical aspects of the process, but also the emotional tenor of themselves as well as that of all of the parties.[[47]](#footnote-47)

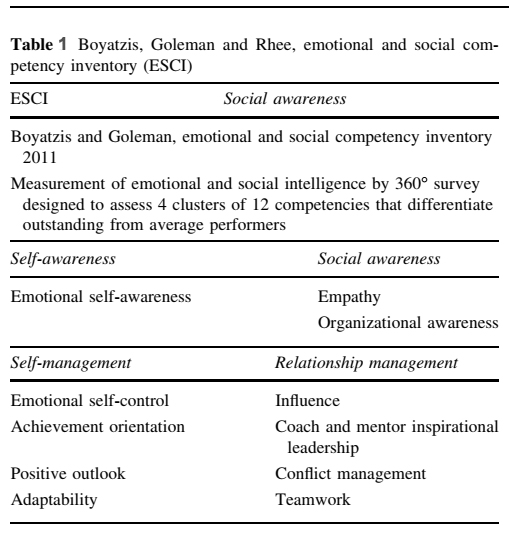
The 1970s and 1980s heralded a ‘New Age’ that rebelled at the post World War II rationality and hard work ethic in favour of spirituality, autonomy and psychology. This generated a plethora of books on self-help, get rich quick schemes, and business success theories and ideas. A notable success was Daniel Goleman’s concepts contained in his 1985 book *Emotional Intelligence*. Goleman, an astute observer with an inquiring mind, promoted the idea that humans were controlled by their emotions, often swamping rational thinking and behaviour. Those people who could control their emotions possessed ‘emotional intelligence’(EQ) and were more successful in life and in business. Moreover, by following his model, EQ could be enhanced, and those who displayed lower EQ, could learn (and be taught) how to become more emotionally intelligent. Successful business leaders and entrepreneurs were considered to have high EQ and courses in EQ became, and often, still are, mandatory for those seeking advancement or promotion.

Mediation, emerging from a judicial ethos with its rigid adherence to reason and logic, was slow to adopt EQ concepts. Fisher and Uly’s 1983 seminal book on mediation advised the mediator to ‘separate the people from the problem’.[[48]](#footnote-48) Similarly, Jones[[49]](#footnote-49) (1999) called mediation an ‘emotion-free zone’. Schreier’s[[50]](#footnote-50) report on mediation training’s neglect of emotion was one of many at the turn of the century to propose teaching mediators emotion training including EQ. Kelly[[51]](#footnote-51) more recently published a very readable paper with some caveats for mediators considering EQ.

**Concepts of EQ**

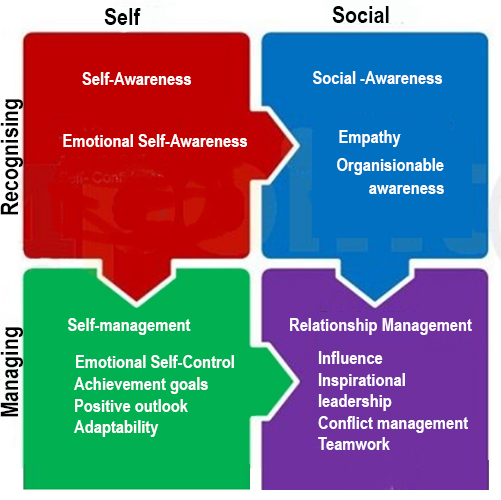
Emotional Intelligence (EQ) was first defined by Salovey and Mayer as, ‘… the ability to monitor one’s own and others’ feelings and emotions, to discriminate among them and to use this information to guide one’s thinking and actions’ [[52]](#footnote-52). Goleman defined EQ as ‘the capacity for recognising our own feelings and those of others, for motivating ourselves, and for managing emotions well in ourselves and others’.  
   
Whilst Goleman’s book made him the ‘unofficial’ expert on EQ, he had borrowed heavily from Salovey and Mayer’s (1990)[[53]](#footnote-53) work on EQ and Boyatzis’ (1982)[[54]](#footnote-54) work on competencies. Salovey and his co-workers continue to publish on EQ. Both have their models of EQ and, progressively, the business market has added their own interpretations such that currently the consensus model is number 3.0 (Emotional and Social Competency Inventory (ESCI).[[55]](#footnote-55)

Goleman considered that there were four (originally five) main categories (he called them ‘clusters’) that covered a series of skills or competencies that collectively measured EQ. The 25 foundation competencies have been shaved down to twelve.



*Downloaded from Segon and Booth. DOI 10.1007/s10551-013-2029-z*

Self-awareness and self-management deal with the inner ‘self’, and social-awareness and relationship management deal with the external ‘others’. Most experts consider that a good manager does not have to have high EQ levels in all competencies.[[56]](#footnote-56)



*Fig.1. Alternative model for EQ adapted from Goleman. Emotional Intelligence,*

*showing the relationships between clusters and their allocated competencies.*

Delphic tablet inscribed ‘Know Thyself’  
(Self-awareness)

Self-awareness is the ability to know and understand the ‘real self’: strengths and weaknesses; beliefs and values; habits and actions; virtues and vices. Knowing these areas that generate positive or negative emotions allows a person (e.g. a mediator) to take control and manage their emotions which is part of the self-management realm (cluster).  
  
A quote attributed to Sun Tzu says, ‘If you know the enemy and know yourself, you need not fear the result of a hundred battles.’   
Sun Tzu’s word, the 'enemy’ could just as easily be changed to any other person, transaction, interaction or dialogue with another.

Thus, being able to recognise, identify and understand others’ emotions, narratives and worldview (social-awareness) can help a mediator better interact with, and manage relationships with, others (relationship management).

**Learning EQ**

1. Self-awareness

Training to understand and manage strong emotions helps a mediator   
(1) build tolerance for expression of emotion,   
(2) develop detachment and reduce stress,  
(3) inculcate patience and humility, and  
(4) promote a realistic understanding of outcomes [[57]](#footnote-57).

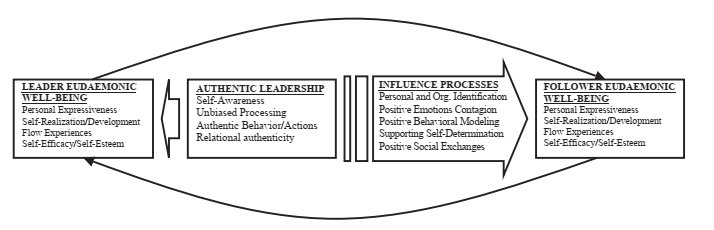
Feedback in Scheirer’s research on mediator training in EQ deduced that EQ is ‘part talent, part gift, part personality, part experience, part training.... but most of it is life experience. You can’t just act like a mediator; you must live your life that way’[[58]](#footnote-58)

Bowling and Hoffman (2000) suggest that persistent reflective experience, discipline, and intention, more than intellectual inquiry, are needed to learn optimal self-awareness. They refer to meditation, yoga, religious discipline, and psychological inquiry as useful practices to assist a mediator in developing authentic presence; integration of mind, body, and emotions; and a higher level of self-awareness.[[59]](#footnote-59)

It is pertinent to note that an authentic leader has many of the same attributes as a high rated EQ manager/leader (See Fig.2). In turn there is a correlation between both in Aristotle's concept of a good person[[60]](#footnote-60). To paraphrase Aristotle: ‘In the right hands, with the right person, at the right time and for the right reasons, a good mediator will create a positive result from a mediation.’

Thus, learning EQ revolves around continuing self-education in some of the following:

* 1. Reflective training and consistency in use
  2. Mindfulness, compassionate meditation, loving kindness meditation
  3. Adherence to Aristotle’s virtue ethics and practical wisdom
  4. EQ assessment questionnaires/profile. Whilst none are completely accurate, they can be used as a form of ongoing assessment of learning
  5. EQ leadership courses or seminars. These are high on rhetoric and low on practical information, yet can suit some individuals
  6. Seminars or publications on Authentic Leadership
  7. Wellness programs including diet, nutrition, exercise, yoga and sleep cycles
  8. Association with like-minded peers, mentors, supervisors and external contacts
  9. Read, absorb and share
  10. Add appropriate music to a daily regimen

  
 *Fig.2 Authentic leadership, EQ and qualities of a ’good person.*

*Downloaded from* [*https://doi.org/10.1016/j.leaqua.2005.03.002*](https://doi.org/10.1016/j.leaqua.2005.03.002)

**The downside of EQ**

1. Negative effects of empathy

Humans can react positively to another’s pain or distress in one of three ways:

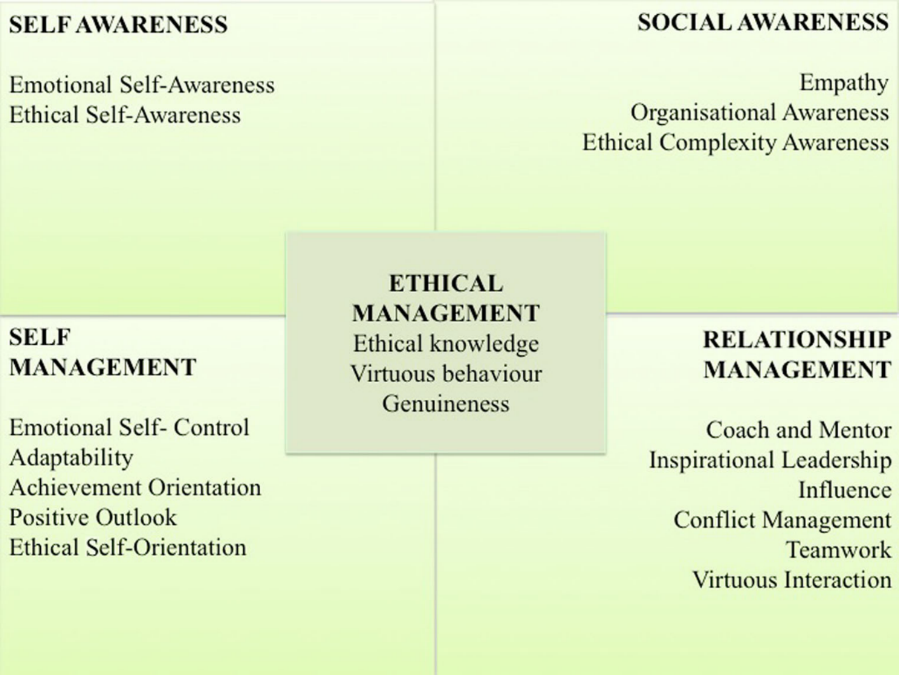
* + Sympathy defined as feeling a person’s distress and absorbing it so they feel better. Yet the sympathiser now carries those emotions.
  + Empathy defined as caring so much for a person’s distress so as to want to feel their emotional distress as a means of understanding. This is often referred as ‘walking in another person’s shoes for a day’. This can lead to *empathy* *contagion* wherein the emotions of the distressed person can contaminate the mediator, affecting their judgement or, conversely, the emotions of the mediator can contaminate the distressed mediatee. A mediator who is not sufficiently self-aware can, over time, develop *empathy distress/overload* and function at lower and lower levels of competency.
  + Compassion (sometimes called mature empathy or empathic compassion) is defined as ‘the emotional perception and recognition of the suffering of others and the desire to alleviate it, understanding the universality of suffering, feeling moved by the person suffering and emotionally connecting with their distress, and tolerating uncomfortable feelings (e.g., fear, distress) so that we remain open to and accepting of the person suffering.’[[61]](#footnote-61)

The two main differences from empathy are not taking on the person’s distress/emotions (thus avoiding empathy contagion and empathic overload) and secondly, the desire to do something about it. It is the drive to do something for the ‘distressed’ person that makes compassion superior to, and safer than, empathy. To be compassionate and show compassion requires a state of self-compassion, a learnt behaviour.   
 Klimecki, Leiberg, Ricard, and Singer[[62]](#footnote-62) have shown that empathy stimulates different areas in the brain compared with compassion and that the empathy signals were negative compared to the compassion signals.

Svenaeus[[63]](#footnote-63) makes a strong case for mature empathy (i.e. compassion) being an essential part of Aristotle’s *phronesis* orpractical wisdom which increases a mediator‘s chances of achieving a good outcome.

2.EQ has removed ethics from its competencies

The gradual shift in EQ towards managerial behaviour and a focus on results at any cost has led to the removal of any ethical competency in the various iterations of EQ. More and more managers and leaders are referred to as high EQ performers yet many are resorting to unethical behaviour such as using empathy and perceived trustworthiness and authenticity to unduly influence their workforce.[[64]](#footnote-64) Segon and Booth have put forward a newer model for EQ that re-establishes ethics as an integral part of an authentic EQ leader. Given the increasing numbers of high profile or high flyer CEOs and managers who have been exposed as criminals (think Enron or Ponzi schemes) this new EQ competency chart is timely. See Fig.3.

  
*Fig.3. Segon & Booth:A proposed exemplar of an ethically informed ESCI framework with Ethics as a foundation competency. Downloaded from DOI 10.1007/s10551-*

**Conclusion**

EQ is a difficult instrument to learn and play. It is person-centered, not work/skill centered. Self-compassion leads to compassion for others and onto practical wisdom and appropriate action. A good, experienced mediator as conductor with innate and acquired EQ can use it within himself/herself and achieve the greater good for the mediatees.

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