

# Principles of Mediation

## “Tool kit” for Secretaries

### Soft Skills Training

*By Marta Makhoul, Trainer and Facilitator*

Part I: Learning forum for Secretaries of Economic and Social Councils  
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# What is Mediation?

# Definition of Mediation

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- Neutral third party involved to support and help those involved in a conflict to find a resolution.
- Helps to solve conflicts that have gone beyond the negotiation stage.
- Mediator does not 'sort things out' or make any decisions for the parties involved. Instead, the mediator helps the parties involved work together to develop their own agreement.



What does Mediation involve?

# Mediation



## Mediation involves:

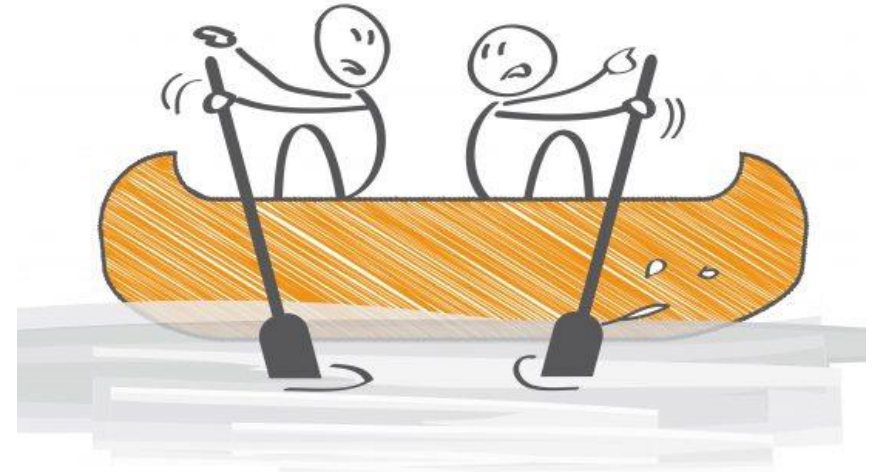
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- ✓ Voluntary participation
- ✓ Face-to-face discussions between the parties in conflict
- ✓ Unbiased mediator without any decision-making power who helps those involved to understand each other's point of view and come to an agreement
- ✓ Equal opportunities for all participants to speak and explain their perspective
- ✓ All relevant information being shared
- ✓ A shared agreement between the parties

Why is Mediation relevant?

# Relevance of Mediation

1. Little costs (compared to other forms of resolving a conflict)
2. Feasible to learn: everybody can learn to become a mediator
3. Relatively simple. There are no complex procedures, maximum penalty is that one party walks away
4. Mediators act as good listeners and problem-solvers (compared to trial with penalty, sanctions and judgement)
5. Allows for flexible solutions.
6. Agreements more sustainable to both parties than court judgement or an order



# Relevance of Mediation

- Effective means of dispute resolution, not require a judicial or third party determination.
- Provides a forum and an atmosphere for
  - mutual understanding,
  - work together
  - explore options
  - Finding solution that is good for all parties





Exercise

# What are typical Skills of a Mediator?

## Step 1

- Reflect in small groups about typical skills a mediator needs to have or learn
- Provide concrete examples

## Step 2

- Share your results in plenum

Answer

# What are Skills of a Mediator?

**A mediator needs a range of skills, including:**

- Active listening skills
- Questioning and clarifying skills to grasp both the facts and the areas of controversy;
- Emotional intelligence to understand the underlying emotions.
- Summarizing skills to set out the main points of controversy, and underlying emotions
- Empathy to help each party to stand in each other's shoes and understand each other's point
- Be neutral, treat all parties fair
- Do not judge and do not take sides
- Acknowledge points made by both parties, and spend equal time with each person on their issues
- Help to make a 'reality check' by asking what they would consider a reasonable outcome, and then ask whether they think the other party would agree.

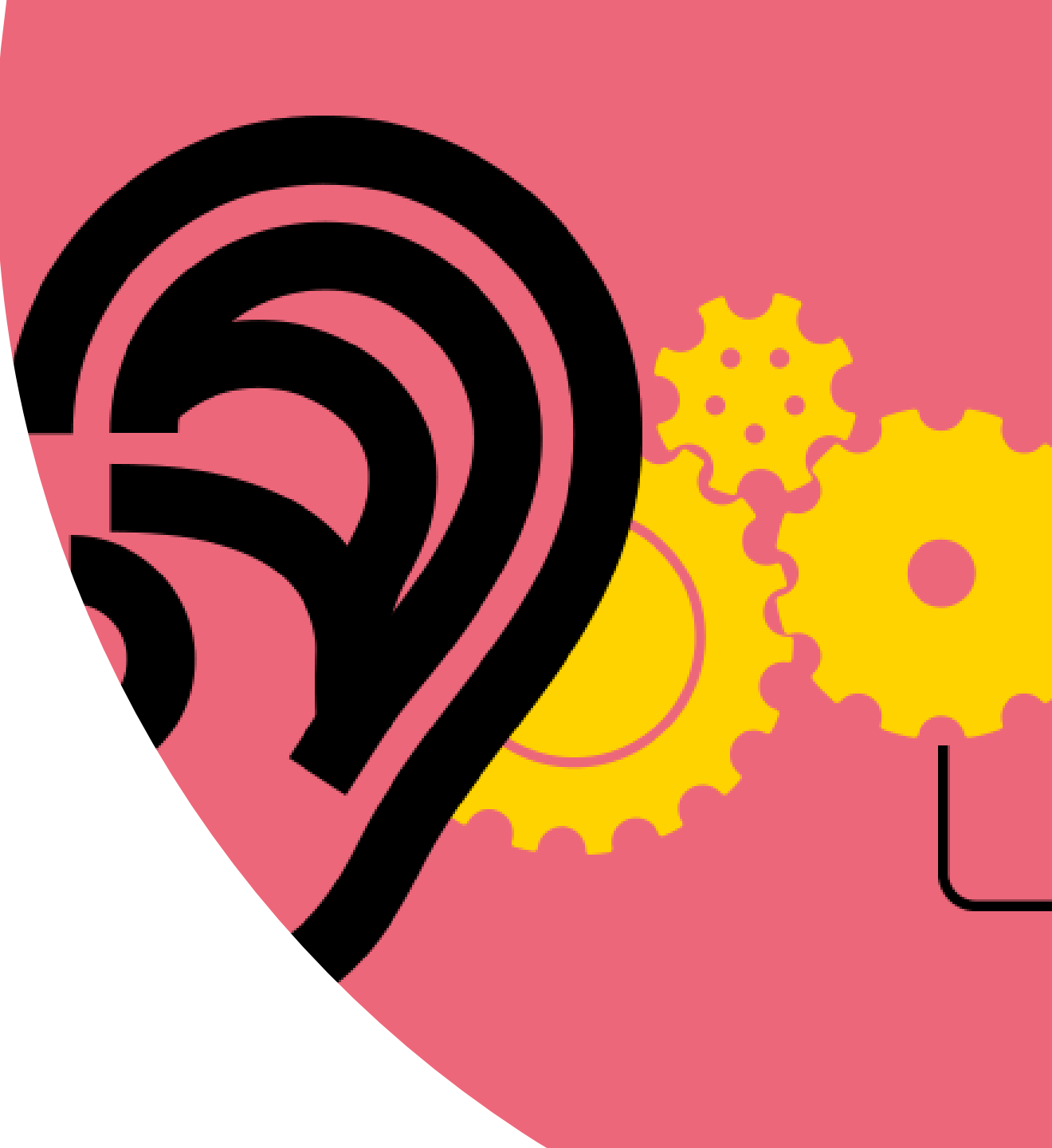
What is the first pre-step of Mediation?

# ACTIVE LISTENING



# Uses of Active Listening in Mediation

- ✓ Getting information
- ✓ Building trust
- ✓ Modeling constructive communication
- ✓ Helping people hear themselves
- ✓ Defusing emotions, de-escalating
- ✓ Increasing clarity about issues, feelings, goals
- ✓ Bringing out underlying interests and concerns (positions ≠ interests)
- ✓ Translating, building bridges



# 7 KEY ACTIVE LISTENING SKILLS

1. Be attentive.



2. Ask open-ended questions.



3. Ask probing questions.



4. Request clarification.

5. Paraphrase.

6. Be attuned to and reflect feelings.



7. Summarize.





# 1. Be attentive

- Smile
- Eye Contact
- Posture
- Automatic reflection/mirroring of any facial expressions used

**ATTENTION!!!**



**DANGER AREA**

## 2. Ask open-ended questions

Examples  
include:

*“What do you  
think about?”*

*“Tell me  
about?”*

*“Will you  
further explain  
or describe ?”*



### 3. Ask probing questions

- *What are some of the specific things you've tried?"*
- *"Have you asked the team what their main concerns are?"*
- *"Does Milow agree that there are performance problems?"*
- *"How certain are you that you have the full picture of what's going on?"*

## Types of Questions

Open

Closed

Probing

Paraphrasing

Hypothetical

Leading

Reflective

## 4. Request clarification

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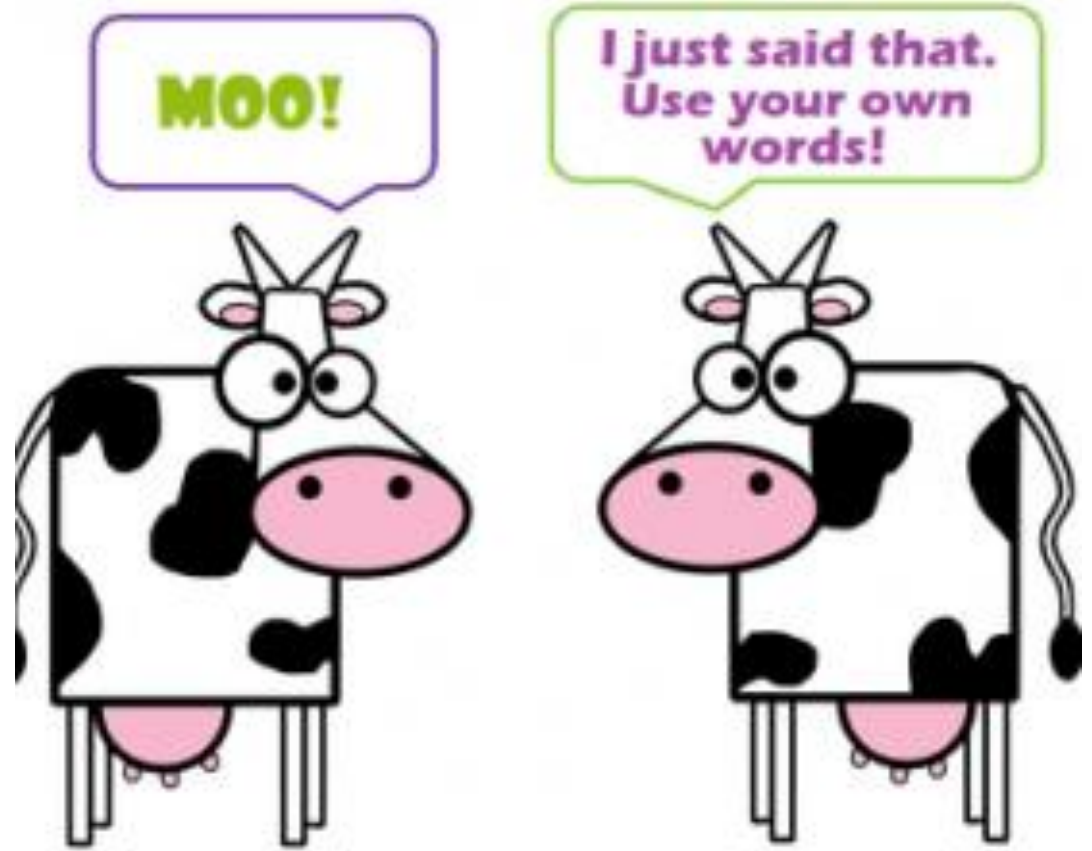
Double check any issues that are ambiguous or unclear to you. If you have doubt or confusion, say something like:

- *“Let me see if I’m clear. Are you talking about ...?”* or
- *“Wait a minute. Try that again. I didn’t follow you,”*



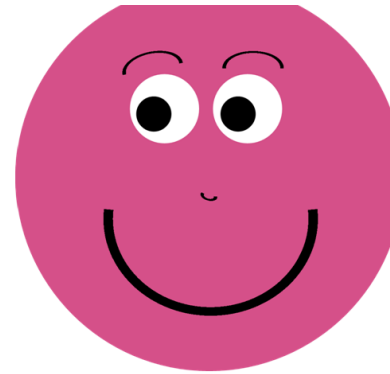
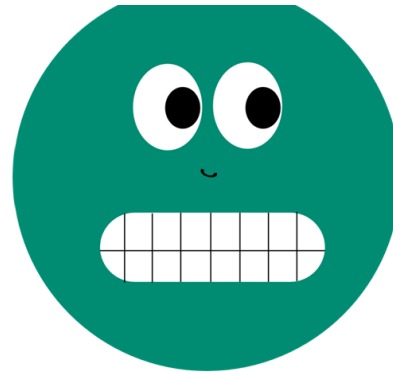
# 5. Paraphrase

- Recap the key points periodically and don't assume that you understand correctly
- For example, a person might tell you: *"Anna is so loyal and supportive of her people — they'd walk through fire for her. But, no matter how much I push, her team keeps missing deadlines."*
- To paraphrase, you could say, ***"So Anna's people skills are great, but accountability is a problem."***



## 6. Be attuned to and reflect feelings

- Identify the feeling message that accompanies the content. This is an effective way to get to the core of the issue.
- When you hear, *“I don’t know what else to do!”* or *“I’m tired of bailing the team out at the last minute,”*
- Try to help the person label his or her feelings: *“Sounds like you’re feeling pretty frustrated and stuck.”*



# 7. Summarize

- Make a “story” out of what you’ve heard
- Capture what’s most important to the speaker
- Include main facts, issues, concerns, feelings, perception
- Check accuracy: *“You’ve said a lot. Let me see if I understand...” “So the issues you’re concerned about are X, Y, Z, and it sounds like the biggest one for you is Z. Is that right?”*
- Give a brief restatement of core themes raised : *“Let me summarize to check my understanding. Anna was promoted to manager and her team loves her. But you don’t believe she holds them accountable, so mistakes are accepted and keep happening. You’ve tried everything you can think of and there’s no apparent impact. Did I get that right?”*



Exercise



**Fill in the self assessment test on  
Active Listening**

(copies being distributed)

# SUMMARY

## Avoid doing this

- ✓ **ask closed questions**
- ✓ **direct the topic towards what you are interested in**
- ✓ **Give your point of view, make judgements**
- ✓ **bring in new information**
- ✓ **Give advice or seek to solve a problem**

## Practice doing this

- ✓ **ask open questions, follow the emotional thread**
- ✓ **direct the topic towards what the other is interested in**
- ✓ **accept what is said, witness the affective dimension**
- ✓ **reflect back what has been said, perhaps even repeat it**
- ✓ **be authentically present rather than 'doing' anything to help**

What is the second pre-step of Mediation?

Cognitive  
Reframing



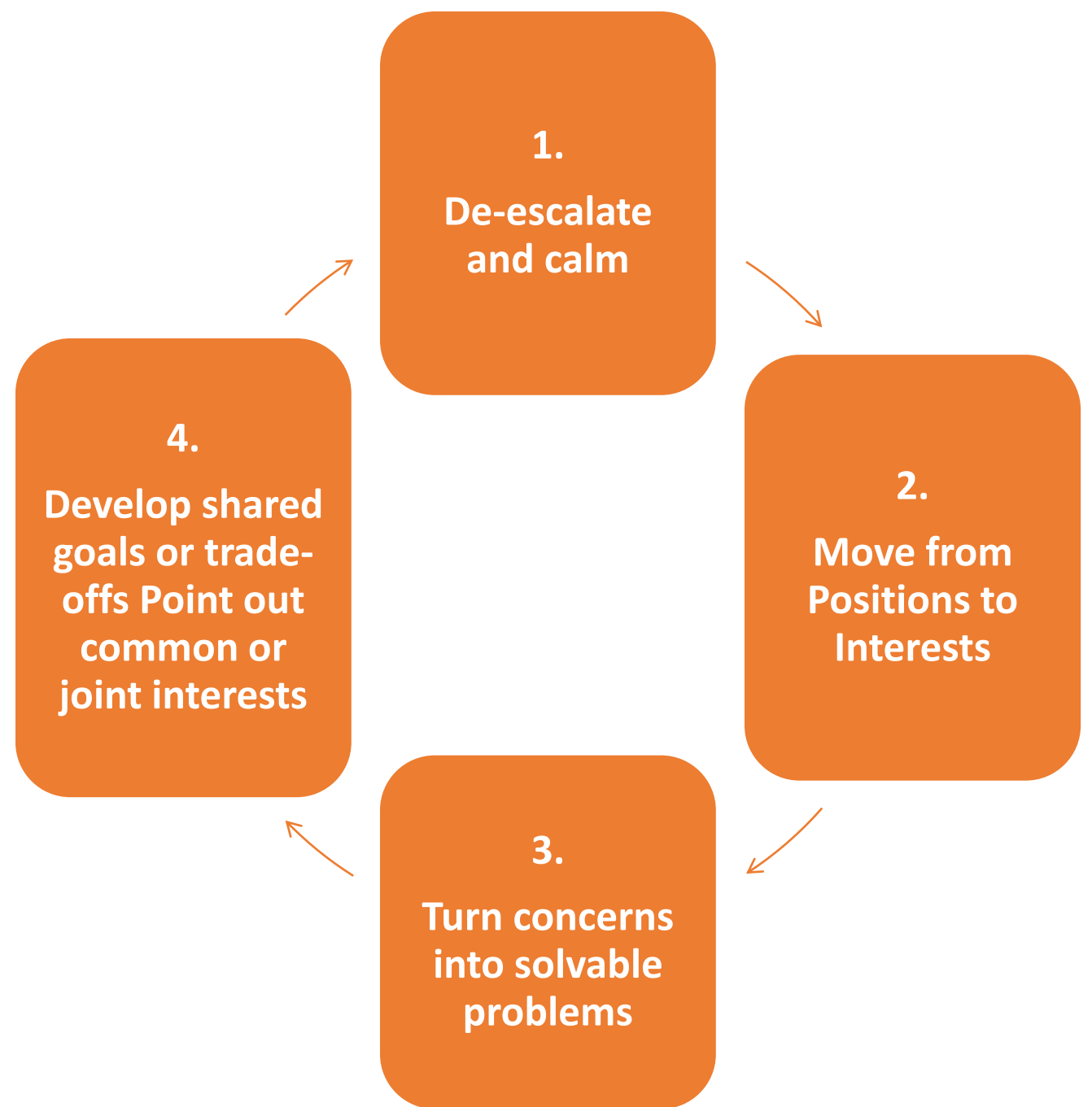
# Cognitive Reframing

## Using the Language of Diplomacy

- Reframing means choosing your words carefully in order to de-escalate hostility and calm emotions,
- Move from positions to interests,
- Describe issues as solvable problems,
- Develop *shared* goals, when possible, or tradeoffs.



# The four REFRAMING strategies for Mediation



# 1. De-escalate and calm

- Let the speaker feel heard, by reflecting back facts and emotions.
- Use neutral language.
- Describe the speaker's feelings, not the other person's character.



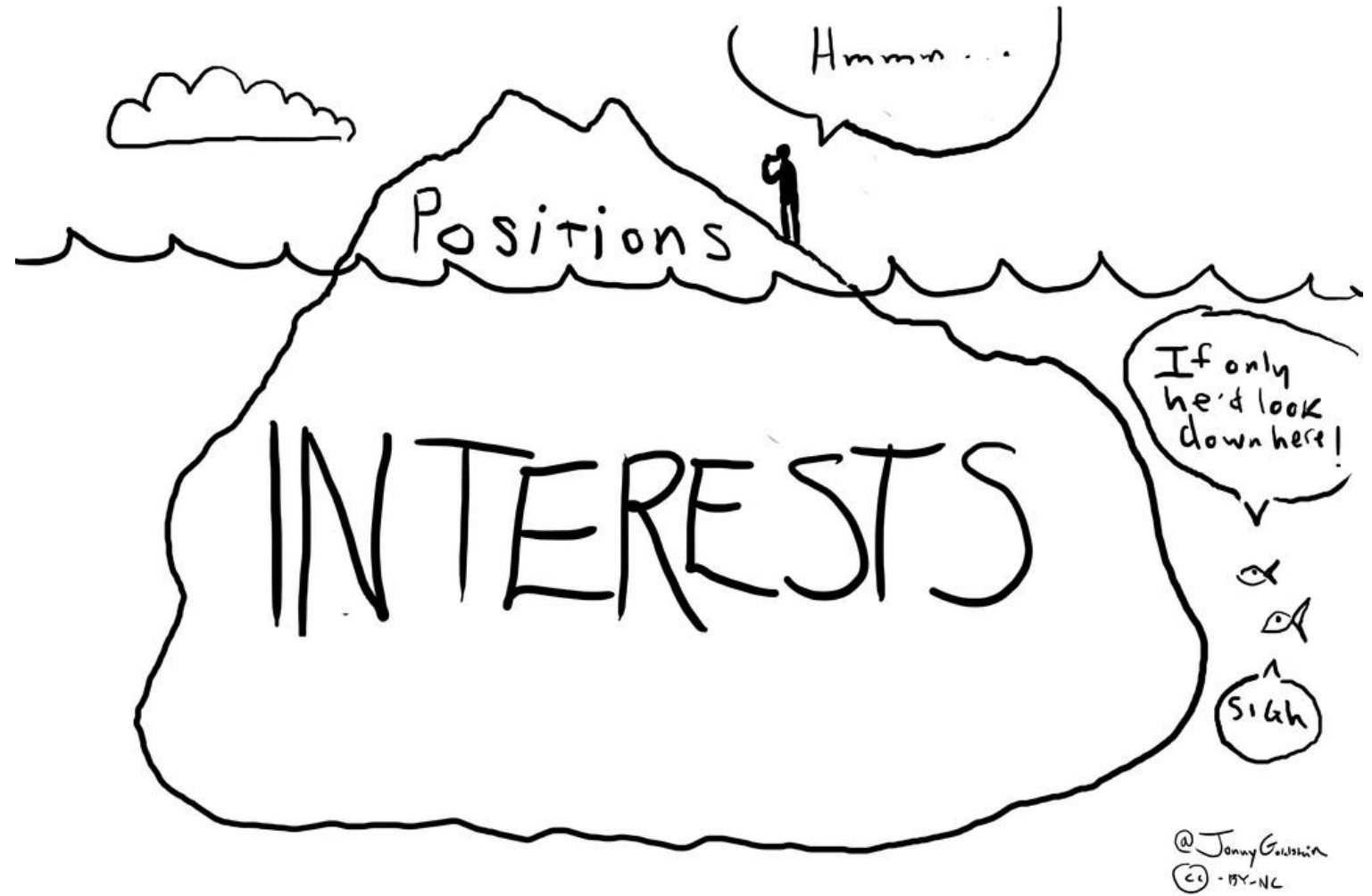


- Ask, gently what the critical elements are in the speaker's position.
- Explore what the speaker wants to avoid.
- Consider alternatives through "What if..." questions

## 2. Move from Positions to Interests



How to distinguish between interests and positions?



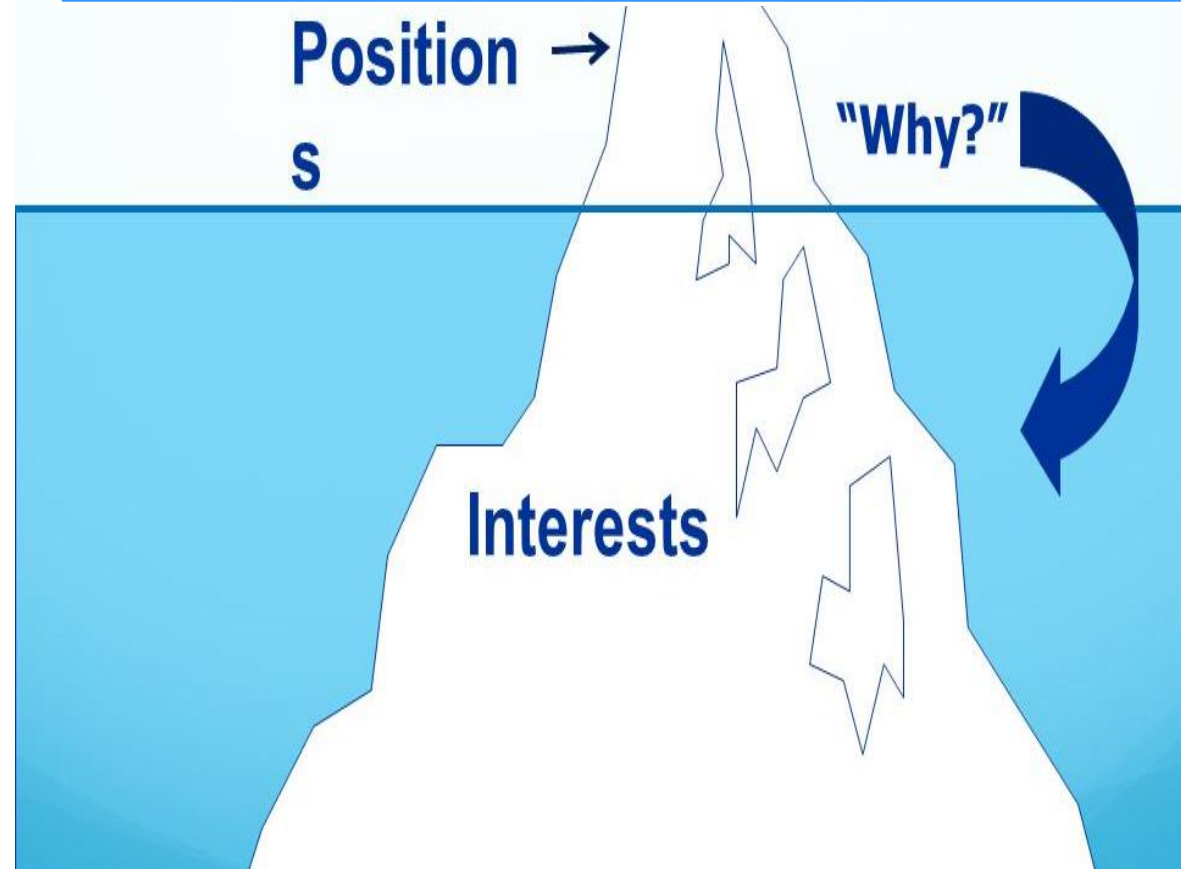
You'll get a better grasp of why people have adopted their position if you try to understand what underlies their point of view.

Ask the right question:

What do they want?" as important to ask as "Why do they want it?"

- I want this project.
- I want this project, too.
- My interest in the project is to organize trainings.
- My interest in the project is to develop technical tools.

## Distinguish between interests and positions by separating people from the problem



### 3. Turn concerns into solvable problems

- Change an attack on a person to a description of a problematic behaviour.
- Change a list of past wrongs into future goals.
- Divide broad / global demands into components, which can be, approached one at a time



## 4. Develop shared goals or trade-offs

- Point out common or joint interests.
- Explore relative priorities of issues, to locate willingness to trade something one considers minor and the other considers important



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Example of reframing:  
move from problem-  
based to solution  
based approach



# Typical Problem Focused Thinking

Approaching this challenge in a **problem-oriented** way means:

- Asking “Why am I wasting time to solve this issue now?”
- This is not my task!
- The third Trade Union should find a solution on their own
- The president should solve it by himself/herself
- What if the trade unions do not want to talk to me?
- What if I cannot solve it?
- It’s a waste of time and energy
- This is not written in my job description!
- Why can the three Trade Unions not solve the issue themselves?
- Why shall I risk a conflict with different parties?

# Typical Problem Focused Thinking

## By Paul Watzlawick

*“A man wants to hang a painting. He has nails, but no hammer. His neighbour does have one. Therefore, the man decides to go to him to borrow it. However, at that moment he begins to have doubts. Imagine that the neighbour does not want to lend me his hammer? Yesterday when he greeted me he also was a bit short. Maybe he was in a hurry. Or maybe he just pretended and he really has something against me. What then? I’ve never done anything to him; who does he think he is. If somebody would want to borrow my tools, I would lend them to him right away. Why wouldn’t he? People like that guy make your life miserable. And I’m sure he imagines that I am dependent on him, just because he has a hammer. That does it! The man storms over to the neighbours door, rings the doorbell, but even before he has had a chance of saying “Good morning”, the man yells at him, ‘You can keep your hammer, you jerk!’”*



## From Problem to Solution Oriented Thinking

- **Solution Oriented Thinking =**
- Becoming aware that we cannot change certain facts/problems/ realities (e.g. set-up of the Council and certain tasks)
- Clarifying how the tasks we are facing are important/essential (e.g. getting the tasks fixed)







## **Solution Oriented Questions =**

- What would you like to achieve?
- How would you realise that you achieved your goal?
- How could you solve the problem?
- How do you get the necessary information?
- What to do instead?
- How to approach it further? How to fix it?
- In which context would you like to change?
- Which possibilities could you think of in order to achieve your goals?
- Who could support you? Who could help you?

Exercise

# Apply Mediation techniques and solution-based thinking:

- A new Trade Union wants to become a Member of the Social and Economic Council in your country.
- By experience, you know that there will be conflicts, especially because the other two trade unions would not want that
- You are approached by the president of the Council to help find a smooth solution before the case goes to court. He wants you to mediate between the different parties
  - How do problem-oriented people think about this case?
  - What approaches, strategies and tools can you apply? What solution can you present to your president? Think of the mediation techniques: active listening and reframing.
  - Think of solution-based questions to address to new Trade Union
  - Present your answer in plenum

Last pre-step of Mediation:  
observation not evaluation

# Evaluation vs. Observation

- Ineffective Mediation is often based on:
- **Evaluating** rather than **observing** situations
- Expressing **blame** instead of clearly communicating **requests**
- **Evaluation** is based on judgments and comparisons to others
- **Observation** is based on facts about situations and behaviors



Exercise

# Distinguish between Evaluation & Observation

## Step 1

- Read all statements and judge whether it is an evaluation or observation

## Step 2

- Share your results in plenum

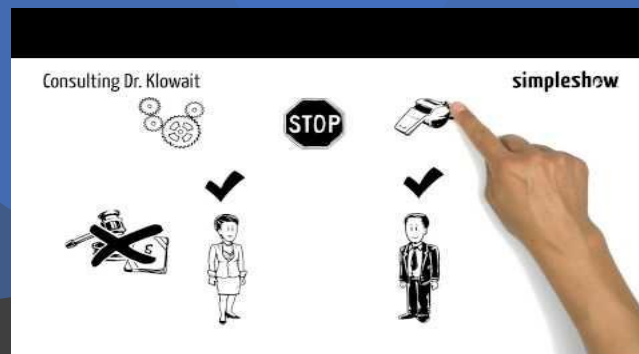
# Distinguish between Evaluation & Observation

- “Emina was rude with me yesterday for no reason.”
- “Today Blerim has taken the minutes during the team meeting.”
- “Amira didn’t greet me yesterday morning.”
- “The Social Partners never want to cooperate.”
- “The council President is a good person.”
- “Ivana works too much.”
- “Eva is aggressive.”
- “Milan arrived twice as a first person to the Council Meetings.”
- “My emails are never forwarded.”
- “Miloš told me I didn’t look good in a yellow jacket.”
- “Council members keep complaining about their heavy workload.”



# What is Mediation?

WATCH VIDEO : <https://www.youtube.com/watch?v=w4s7p7hOjYk>

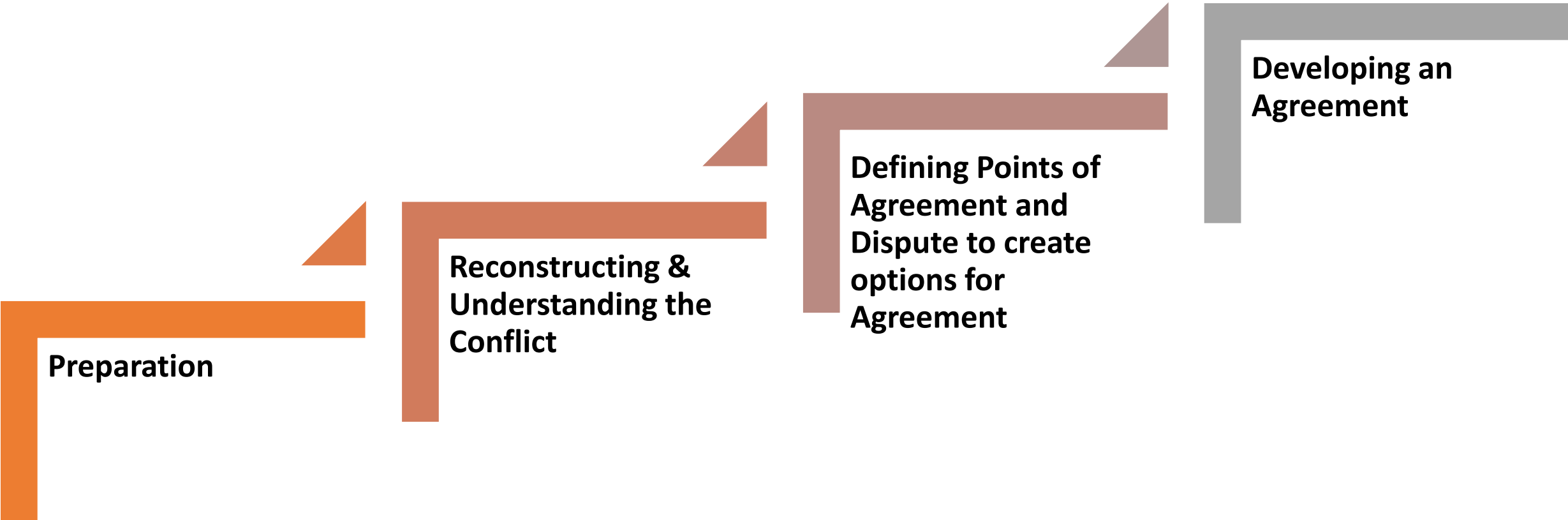




## PREPARING FOR THE MEDIATION PROCESS

1. Figure out the real interests, not the “positions” for each side.
2. Privately review these points with each side.
3. Through acquiring information and brainstorming, seek to expand the pie so that each side might get as much as possible of what it would like. Explore moving the reservation points of each.
4. Help the parties decide on fair principles to determine how to decide the issues at hand.
5. Do what you can to see that all parties come to see a solution, agreement or common position

# The Mediation Process: 4 steps



# The Mediation Process: Step 1 Preparation

Lay out **'ground rules'** for the mediation process.

- Example: set out that only one person talks at a time, others listen in silence, no verbal abuse at any time, confidential space
- Set out mediator's role: be neutral and help parties to reach their solution, but also to protect parties from each other if necessary.
- Consider having separate meetings with each party to develop a better understanding of the issues before mediating a joint meeting.



# The Mediation Process: Step 2 Reconstructing & Understanding the Conflict

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Examples:

- **Clarification:** listen to the participants' stories, whether together or separately, and clarify what they want to achieve from the process
- **Reconstructing and Understanding:** you are meeting both participants together, summarize main points of conflict in a neutral way so that both can agree upon, and propose an agenda for the discussion



# The Mediation Process: Step 3

## Defining Points of Agreement and Dispute

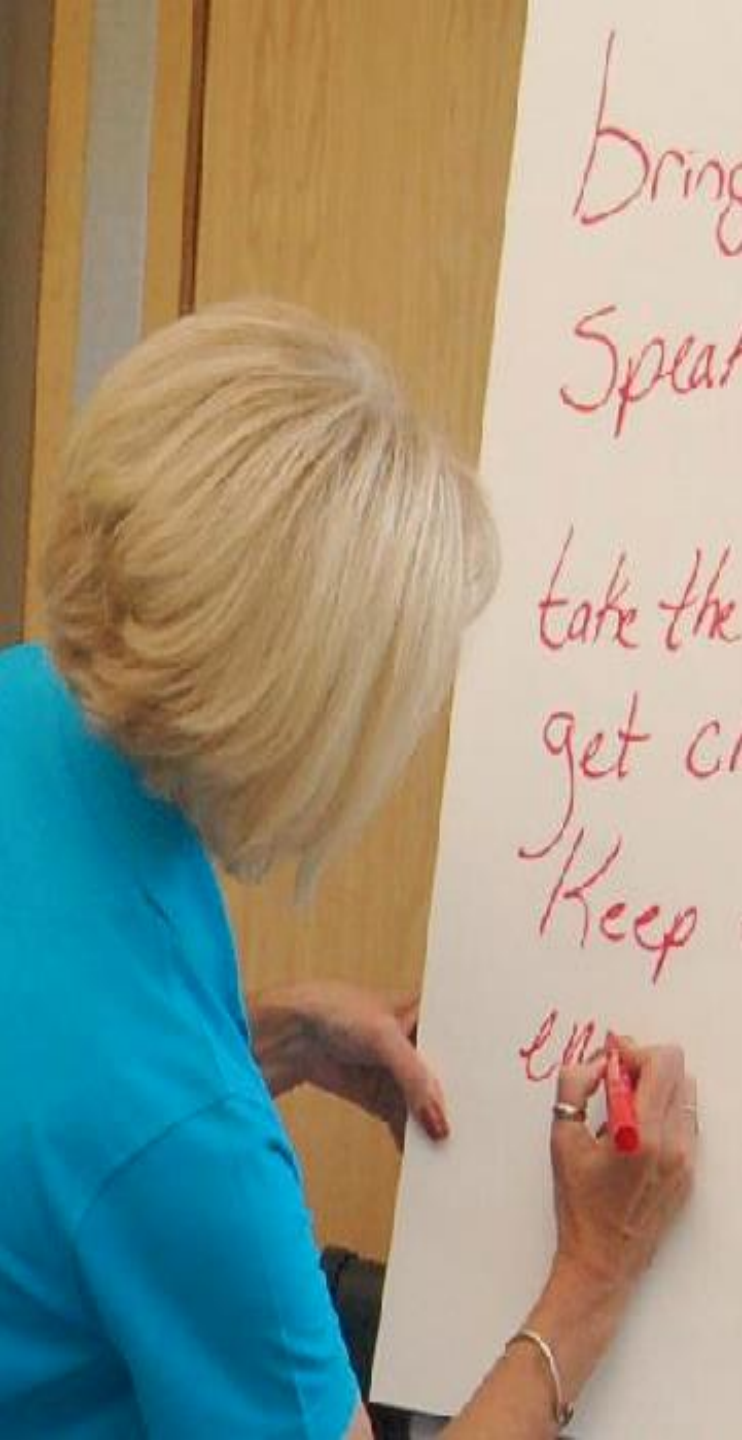
- Use paraphrasing and summary in neutral terms to help them identify areas of agreement, and to check understanding.
- It's powerful to reflect feelings back to the participants, as it shows both that they have been heard.
- Make sure that you are reflecting their opinions and not your own.
- Once the options are on the table, you'll need to guide them to a single solution that suits all parties, and help them to fine-tune it if necessary.



# Creating Opportunities for Understanding

Ask:

- What do you think he wants?
- How do you think she feels?
- What do you think is causing him to feel that way?
- How do you feel about [the way he feels]?



# The Mediation Process: Step 4 Developing an Agreement

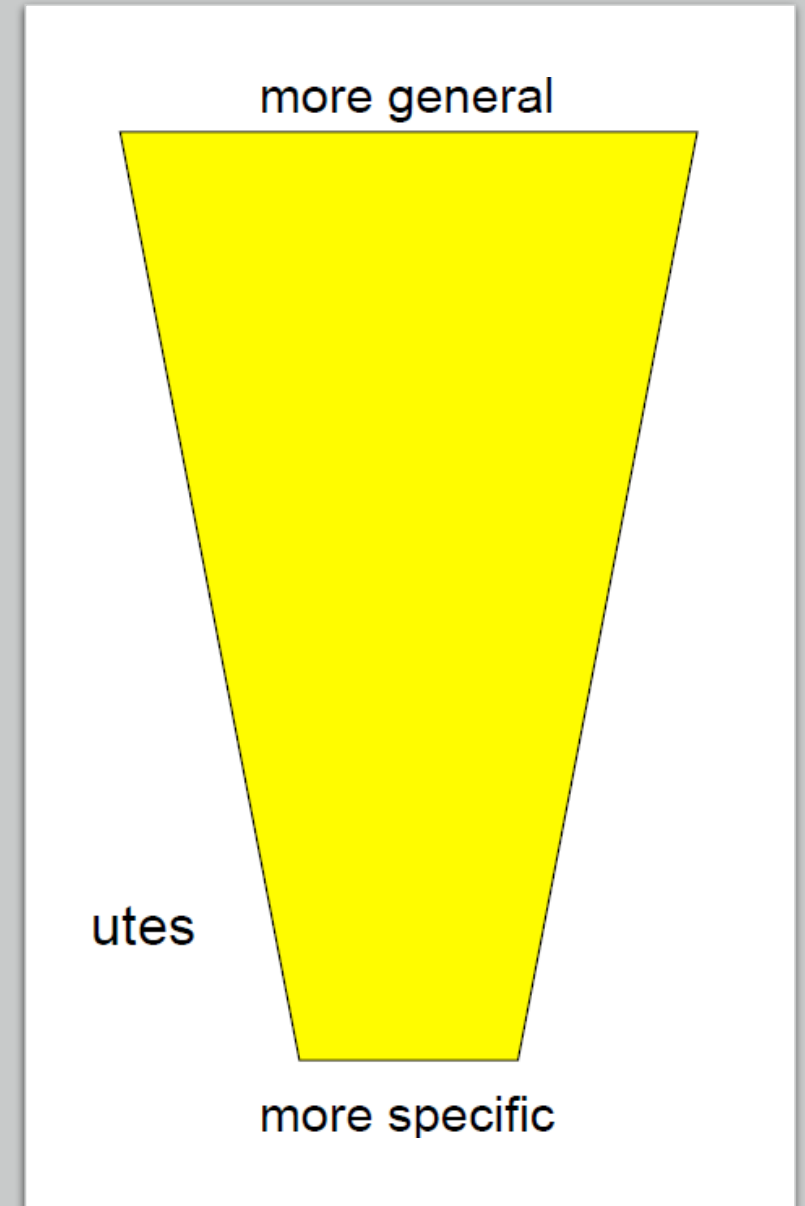
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1. Write down the proposal in neutral language, and read it back to them.
2. Write down individual points so they are clear and understood.
3. Clarify any general or vague points, for example, by asking the participants to agree concrete behavioural changes with deadlines for achievement.
4. Avoid legalistic language, and keep everything simple.
5. Summarise progress and next steps, including setting a deadline for any future meetings, and identifying any remaining areas of difficulty, and options for their resolution.
6. Being positive about progress and the fact that everyone has remained engaged.
7. Offer your continued support as a mediator if required.
8. Ensure both parties sign the agreement then and there, and close the meeting once agreement is reached.



# Types of Agreements

- Agreeing to participate in the discussion
- Agreeing on agenda & ground rules
- Agreeing on a process for continuing
- Agreeing on how to collect more data
- Agreeing on shared values or principles
- Agreeing on shared goals or interests
- Agreeing on criteria or constraints
- Agreeing to disagree on specific issues
- Agreeing on a process for handling future disputes
- Agreeing on specific behavior or actions



# Summary:

## The Mediator's Role

*What it is NOT:*

- to be a detective - get information and stop
- to be an arbitrator - decide the best outcome

• *The Mediator structures the process to:*

- ✓ separate out emotions,
- ✓ move from positions to interests,
- ✓ channel communication between the parties,
- ✓ provide a reality check,
- ✓ initiate brainstorming & generation of options,
- ✓ create opportunities to see the other side, and
- ✓ identify the signposts of agreement.



# How to Overcome the Need to Be Liked

- 1. You will never be liked by everyone, so just get over it.**
- 2. You don't have, and will never have, control over what others think of you. But you can take charge of what you think about yourself.**
- 3. Try to separate people from problem (not the person is the problem but his / her attitude)**
- 4. Do not question your identity nor your personality; instead question your behaviour**



Any Questions?

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*Thank you for your attention*