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The merits of short, intense and practical mediation training

Spain is on the verge of a new and exciting era in the field of mediation. The Spanish government has approved a new law on Mediation regulated by the *Real Decreto Ley 5/2012* (Law by Royal Decree). The new regulation demands accreditation and certain training requirements in addition to setting out professional practice requirements. The details of these requirements, or regulations, will be determined later, probably in a few months, in the regulatory phase that will follow the *Real Decreto Ley* of mediation.

The introduction of the *Real Decreto Ley* of mediation will create a surge of interest in professionals training to become mediators. Many will see mediation as the opportunity to provide a valuable service to society and at the same time earn an additional income through the provision of a professional mediation service. Mediators will need to be trained to high standard recognised domestically and internationally. But what does 'training a mediator' really mean and what form of training should Spain be developing? Does the training need to be structured around long, theory laden courses? Or is there something to be gained by shorter more practical courses that provide a framework upon which the mediator can develop his or her trade?

As Spain embarks on this new journey, there are some lessons that can be learned from other jurisdictions, particularly on the training front. The development and delivery of professional training and accreditation standards will be vitally important in the first few years if Spain is to develop a credible and accessible professional mediation market. Key to the success of any educational programme is training consistency and quality assurance together with recognised assessment procedures. In looking at the alternative models, it is important to focus on the outcomes and objectives of a training programme and not only on the academic content and structure of the course.

One model of professional mediator training that meets the above three criteria and which has a proven track record of success in producing a strong and highly respected mediator profession is that developed by the ADRg in the United Kingdom (www.adrgroup.co.uk). ADRg was the first commercial mediation organisation to be established in Europe in the late 1980's and has continued to be a pioneer for commercial mediation in Europe. The training model developed by the ADRg and which is still run today is a **40 hour programme that is experiential, highly practical in nature and very intense**. The structure of course involves a mix of tuition, practical exercises, group work, role-plays and formal assessment. The assessment model is continuous and is structured around core mediator competencies which are based on universal norms and our first hand experience of mediation best practise:

1. Planning and organising
2. Process Management
3. Communication
4. Creativity and Facilitation
5. Mentoring and practice development

It is worth explaining a little more about the philosophy around the ADRg training and why it is 40 hours. We believe that mediation is the art of good communication and dispute resolution skills. These skills can be taught and part of that teaching is helping the delegates understand how their skills can be developed and improved through experience. We don't believe that you can simply teach people how to be a mediator and expect them to leave the training programme as fully competent and experienced mediators. It is a much longer journey than that; a journey that we take with our mediators. We can teach them the skills

required and the process management side of the process within the 40 hour course structure. We help them understand how to apply these skills through a series of practical exercises and mediation role-play scenarios. It is also important to recognise that most delegates who attend our courses are professionals (many are lawyers, barristers, notaries but also many are from other professions) and they bring with them a wealth of life experience and people management skills. We give them a new skill set called mediation which complements their existing skills.

Not all people are made to be mediators

The notion that you have to train people for a long time, eg 400 or 600 hours, does not in our view produce better mediators. We know from experience that you can provide a delegate with all the necessary skills during a 40 hour course. Our experience of over two decades confirms that your main learning as a mediator takes place after the course when you attempt your first mediation. In my opinion, the importance of mentoring and support structures around a mediator at this stage far outweigh the apparent benefits a drawn out, theory laden course offers over a short, intense practical course.

It is our view that in the overall development of the mediation 'profession' consideration needs to be given to the development and implementation of a mentoring and development structure. Training mediators is all about skills, practice and confidence not a total immersion in theory. The initial or foundation training that is delivered to ADRg delegates wishing to become accredited as mediators is only the first step on the journey of a professional mediator. Most of what they learn and how they apply their newly acquired skills will be in the hot seat as a mediator on their first case and the de-briefing thereafter. There is no substitute for first hand experience in this field. Regardless of the number of theoretical examples you might study in an educational environment, the real learning starts when you undertake your first mediation. Key to the longer term development of a mediator is ensuring that each mediator has access to suitable mentoring and supervision and that they are able to seek the advice and guidance of more experienced mediator as they develop their own skills. This post-educational development needs to be well structured and monitored if it is to produce a high standard of mediator. Professional bodies such as the Colegio Notarial de Madrid can play an invaluable role in supporting the development of Spanish mediators under a well managed and well structured mentoring programme.

In the United Kingdom there has been extensive debate for many years about the quality and content of course and the ideal duration. There is little substantive evidence to confirm that the success of a programme or the quality of the mediators it produces is linked in any way to the duration of the course. To the contrary the UK experience has proven, over two decades, that the provided the content and structure of course is of the highest quality, that it is delivered by experienced trainers and mediation practitioners and that it allows the delegates to practice what they learn, it will produce mediators who are able to begin their careers with confidence.

At the present moment, there is no mediation law in the United Kingdom. Most mediators and mediation providers such as the ADR Group are 'approved' by the Civil Mediation Council ('CMC'), a organisation that effectively acts as a trade association for the mediation industry in the UK. It sets out rules that its member organisations are required to comply with, in effect acting as an industry appointed self-regulator. The EU ADR Directive and Code are adhered to by CMC members. A recent development within the CMC has been to set out agreed minimum standards of training and accreditation. In all instances, the UK mediator training benchmark is a 40 programme that includes assessment. The notion that a longer course will produce better mediators simply does not stand up against the experience of the mediation profession in the United Kingdom and the many law firms around the world who regularly appoint our mediators.

I am sure that some form of regulation of training will follow the introduction of the *Real Decreto Ley* of mediation. I hope that those charged with the responsibility of agreeing what makes a good course will be minded to consider the experiences of other countries. There are considerable benefits of a short, intense practical course that provide mediators with the

necessary skills and confidence take their first steps of the journey into this new profession if there is a well structured mentoring and post-training support structure in place.

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