

The role of the mediator – James Golden

I attended an absolutely first-class conference last week in Edinburgh, held by the International Academy of Mediators. Although I do some mediations as a mediator, my day job is increasingly representing parties in a mediation process. Therefore, it was excellent to be able to talk to the actual mediators themselves. I was there to provide a briefing on the Irish experience of mediation and conciliation in various guises and point out how things in Ireland differ from GB and to learn lessons from how they differ from mediations on the continent and across the Atlantic. It was a very interesting couple of days indeed.

Mediators' key role is to help the parties reach an agreement. The mediator has to act fairly, keep confidences and work hard to keep the parties moving forward towards what should be a mutually beneficial agreement at the end.

Mediators are not judges, but simply facilitators and so are trained and practiced at being enthusiastic but emotionally detached. One of the obvious points from the conference was that mediators are human, and their emotions will count. Sometimes this is extremely helpful, because it assists the parties to be pointed the right way and, particularly where one party's position is unreasonable, it can help that party overcome its prejudice and so unlock an agreement. However, clearly there are times whenever an emotional engagement by the mediator is unwelcome and it was universally identified that the parties' and their representatives' attitude to the mediation affect this considerably.

Mutual respect, hard work, especially in preparation, so that parties come prepared for the mediation, and good communication between the parties and the mediator is key. This does not come easily and my extensive experience as a representative in mediation underlines how hard it can be to achieve it.

I was particularly refreshed that it seems what we do at Quigg Golden is at the cutting edge of best practice for representing parties in mediations, which perhaps reflects our high success rate in that forum.