



Mediating Online in the Covid-19 Environment

By Mia Forbes Pirie and Graham Ross



In this time of self-isolation online mediation becomes more relevant than ever. There are, of course, advantages and disadvantages to mediating online. However, given that it may be the only option, this article focuses on tips for online mediation. Experts in workplace, tech and online dispute resolution, Mia Forbes Pirie and Graham Ross give you the low down.

We evaluate people not just through words but through the congruence of words with their body language and tone of voice. Often it is our extremities which give us away – a foot tapping, hands moving. How, therefore, can we better evaluate and generate trust when not in the physical presence of each other? How can we make mediation work online?

Mediating online – platforms and tips

In the Covid-19 environment, we assume that mediation will take place using a dedicated online mediation platform and/or video conferencing software such as Zoom. If a combination with face to face mediation is required, most of the mediation could be conducted online with a potential face to face meeting to wrap things up once social distancing ends.

Many of these points seem obvious but make all the difference.

10 Top Tips for video mediation

- 1 Tech!** Find out how comfortable participants are with the technology. Prepare with separate test runs.
- 2 Acknowledge the issues and signpost.** Start the video call by acknowledging what may be different from a face to face meeting. E.g. time-lags, longer pauses for questions and contributions. Let people know clearly what the technical process is going to be.
- 3 Use common-sense and follow social norms.** For instance, introduce yourself at the beginning of a meeting with one side. Make appropriate “chit chat” to build trust. Always be on time.
- 4 Encourage a focused environment free from distraction.** Request that mobile phones be switched off and that, wherever possible, the environment be free of distractions (children, dogs, doorbells ringing, checking emails etc.)
- 5 Camera angles.** Help the parties set up their camera to better display their image. Avoid angles looking up someone’s nose. Each person, especially you, should be sitting upright at a desk or table at an appropriate distance from the camera. If you want to appear to be ‘looking people in the eye’ look directly into the camera.
- 6 Neutral background.** Consider insisting on a neutral background (e.g. a white wall or a plain digital background). This is particularly helpful where there may be disparities in wealth or power between parties.
- 7 Take security measures.** Ask parties to commit to not recording the session, not inadvertently sharing login details and to being alone in the room. If using Zoom, make sure you take steps to avoid “ZoomBombing” (hackers joining your meeting), including password protecting your meeting and possibly disabling “file transfer” and “screen sharing” by the parties”. Have a protocol for sharing documents. Understand the security features of any platform you use.
- 8 Virtual breakout rooms.** To recreate a shuttle mediation environment, Zoom allows you to have joint sessions and then move parties and their lawyers into breakout rooms which you can drop into. Participants can be reassigned to different rooms as needed, as in the real world. Get comfortable with these features. Sometimes, however, it may be better to close the joint session and schedule times to speak separately to the parties.
- 9 Technical restrictions.** Consider the meeting settings carefully. For example, disable “join before host”, and possibly other features to prevent Zoom bombing (point 7). Consider muting participants on entry, assigning people to breakout rooms in advance.
- 10 Consider hiring someone with experience in online mediation.** Mediation online requires different skills to in-person mediation.



Dedicated online mediation platforms

Platforms exist which combine video conferencing with “asynchronous” messaging (different times), and document and case management. They provide the possibility of conducting a mediation with different parties at different times.

All of the above video conferencing tips apply here. In addition:

- Ensure you use a platform that allows you to control the times when each party can post messages.
- Since you will not be able to see hesitancy, where that may be an issue, ask the parties to scale their answers, 1-10, to ‘yes/no’ questions on opinion. For example - on a scale of 1-10, how important is this to you?
- To avoid delay in responses, send text alerts when posting a message.
- Carefully review your messages before posting and consider if best framed.

We hope that this will have given you some useful insights. There is only so much information we can provide in this short article. Further information, training and more tips are available from **Graham Ross’** distant mediation course at:

www.ODRtraining.com and www.SeeYouOutOfCourt.com

Mia Forbes Pirie is a commercial and workplace mediator with significant experience in technology and online mediation. For more information see: <https://miaforbespirie.com>

There has been some controversy over Zoom’s security which is important to take into consideration when choosing a platform and discussing with clients. At the time of writing, Zoom has issued a statement admitting to security issues (separate from the cause of ZoomBombing) and a research unit at the University of Toronto has published a detailed study advising not to use Zoom for confidential discussion and in particular not to use the Waiting Room function until Zoom’s promised changes have taken place. See <https://tinyurl.com/TORONTOZOOM> and <https://tinyurl.com/ZOOM4MEDIATION>. The situation is evolving.