

Advantages and Disadvantages of Online Mediation

During our Open Justice module, we were required to undertake online mediation in our 'pro-bono' group project. Given how the current global pandemic has affected access to justice (and courts) this type of delivery is being experienced and expanded by the legal profession as a whole. These issues were discussed by Rule (2020) in his article 'Online Dispute Resolution and the Future of Justice' and the pandemic which Susskind (2020) describes as "...a huge unscheduled pilot." As a group, we have noted several advantages and disadvantages to online delivery of mediation.

Advantages of Mediation

1. Can be far more inclusive to people who cannot travel or have access requirements. As Himonas states in the article *Utah, 'Pajama Court' and Resolving Cases Online* "Justice is a thing ... justice is not a place," SXSW (2019).
2. Can also be more cost-effective, with no room hiring charges, for parents or carers less travelling time and costs, as discussed in SXSW (2019).
3. Where there may have been conflict or difficulties for some Online Mediation may provide a safer space.
4. Less chance of a conversation becoming out of hand as the conversation is more easily manageable online with only one person speaking at a time.
5. More effective way of working, less time wasted in conflict and more on resolution, benefits Susskind (2020) describes that "...handled remotely [are] often at lower cost, more conveniently, more speedily, and less combatively than in our traditional system."

Disadvantage of Mediation

1. Can alienate many clients who do not have the equipment, this may include older members of society who are not comfortable with a virtual platform and people without access to strong Wi-Fi connections. Although notably, Joint Technology Committee (2017) states that there are "...false assumptions, particularly about access to technology" and that "...technology access and adoption just like 3-5

years ago is likely not true today.” This is a statement we as a group do not perceive to be true in practice.

2. Working from a remote/home environment does not always provide fully neutral and safe spaces which may inhibit the judgement of clients and raises Issues around confidentiality.
3. Technology issues can prevent the delivery of effective mediation. This was felt acutely by our team as mentors with previous difficulties with Adobe Connect and switch to Microsoft Teams which drew attention away from preparation.
4. Online Mediation puts distance between the clients and mediators. As people have to speak one at a time on Online Mediation it can be hard to get a natural feel and flow to the mediation.
5. It is much harder to thrash out the initial disagreements on Online Mediation and harder to pick up visual clues from both the disputants and co-mediator.
6. Online Mediation is very tiring as you cannot feel the support or energy of your fellow humans. What Ramachandran (2017) in the article ‘Four Reasons Why Zoom Can Be Exhausting’ suggests as resulting from (i) excessive amounts of close-up eye contact; (ii) seeing yourself constantly in real-time is fatiguing; (iii) reducing personal mobility; and (iv) increased cognitive overload.

References

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