

Skills For Conciliator / Mediator To Posses And Behaviours To Be Avoided In The Conciliation / Mediation Process

Skills Shall A Conciliator/Mediator Possess To Successfully Conduct The Conciliation/Mediation Process.

Key conciliator's skills should be possessed by a conciliator/mediator to successfully conduct the conciliation/mediation process can be described through three dimensions which are the people, the problem and the process. By looking on these dimensions we can find a set of key conciliator's skills. The self-awareness and skills also will discuss further in my article because I believe that it was important thing to measure how good the conciliator he/she is. I also will touch on the aspect of the mistakes a conciliator/mediator should not commit and what are the behaviours to be avoided during the conciliation/mediation process.

Dimension of Skills

The first dimension is the people which are the parties into the disputes. An effective conciliator is to be an excellent communicator when dealing with the parties into disputes which are employer/representative and workers/trade union. He/she takes in messages and information then communicates them very well. In other words, He/she should have good communication skills. The good communication skills involve neutral listening, active listening, reframing or clarifying what people have said, problem-solving and bringing the parties back to a point where aspects of agreement can be captured and summarised. The conciliator also should have Emotional Intelligence (EI) which is the ability to identify, assess and control the emotions of oneself, of others and of groups. The conciliator also needs to understand the nature of both inter and intra group conflict in order to understand and see possible conflict within the parties themselves and the strength of certain people's influences within their group. Furthermore, excellent communication skills also consist the ability to read people's readiness to move and where the movement isn't happening the

conciliator needs to be able to establish influence over the dispute parties in order to persuade them to consider acceptable ways forward. They also need to be alerted for indications of mood changes especially when the dispute involving individual compared to collective group. It was crucial for a conciliator to gain trust of the involved parties.

The second dimension to describe the skills should be possessed by a conciliator is through the problem in dispute. He/she must have ability to absorb and assess information quickly in order to understand the arise dispute between the disputed parties. To develop better understanding towards the problems or the disputes he/she must never afraid to ask question by using several types of question which are effective questioning, open questions, closed questions, funnel/drilling questioning, circular questioning and hypothetical questioning. He/she needs to be mindful of the context of the problem whether during the pre-conciliation or during conciliation process. The conciliator also should have ability to look the problem in wider perspective by analyse the disputes from different of angles and perspectives. Furthermore, a good conciliator must be patient when dealings with disputed parties by giving ample time and space for them to response. When he/she feel some progress during conciliation he/she must capture and summarize all the gathered information quickly in order to find understanding and amicable solution for them. With all the gathered information a good conciliator can use them to influence and convince the disputed parties in order to achieve a win-win situation settlement.

The third dimension to describe the good conciliator is through the process of conciliation itself. They must fully aware their limits and scope during conciliation so that they can consulting, advising and persuading people confidently. Being impartial means they must act not just fair but perceived to be fair. They must keep confidentiality of all the information that they got during conciliation in order to gain trust and confidence from the disputed parties. When there is trust and confidence toward conciliator then the conciliation process will have a good end. The conciliator also must be able to achieve clarity and display total impartiality. They must avoid to make a prejudgment

and judgemental toward any parties in dispute because it will lead to biasness and unfairness during conciliation. Make matter worse is when the unfair treatment to any parties will swept away their trust and confidence towards the conciliator. The conciliator must give full commitment during conciliation process by assisting, advising and consulting both parties to find amicable solution that will benefit them. They must strive and not easy to give up in convincing and persuading all the related parties during the conciliation.

The fourth is self-awareness and skills whereby the conciliator knows their own skills and limitations. *“Knowing ourselves first before knowing your enemy”* is suitable phrase to describe this matter. Only us know how strength our skills are, then we can make a good preparation before conciliation process. To be a good conciliator, he/she also must realize which part of his/her skill and ability that need for improvement. So that they must open themselves into learning new skills or new knowledge by going to course such as conciliation course, psychology course and so on. The conciliator skills can be sharpening through experience so that they must have courage and desire to conduct a conciliation that involve people with different background i.e. job position, race and so on. To make a good judgement during conciliation by feeding the disputed parties with all the relevant advice and sometimes give suggestions that lead to settlement cannot be obtained in short of time. This comes with time, learning from mistakes and patience. In brief, the good conciliator must have combination of 2 elements which are learning skills and skills gain from precious experience. Perceptions of other people toward the conciliator is also vital. This is simply because if someone respect you then they will listen to you, if they look down on you then they intend to disagree with you. Sometimes it will lead to heated argument because they will stick to what they believe and will never believe or trust on you.

In conclusion, conciliation process is the process dealing with other people i.e. employer/representative or employee/trade union problem so the conciliator must prepare themselves with the certain skills in order to conciliate, meditate and facilitate them. In short, the conciliator must have possessed certain skills and ability that can be described through four dimensions which are the people,

the problem, the process and conciliator itself. All the skills that was described in that 4 dimensions is crucial for the conciliator to know and make them a better conciliator.

Mistakes To be Avoided by A Conciliator/Mediator

There are several mistakes a conciliator/mediator always do during a conciliation/mediation process which can be found by looking at people involved in the disputes, the problem derived from conciliation process.

Conciliation is process that involves people with different intellectuality, emotions and attitudes. Thus, sometimes a conciliator will do mistakes when one of human elements mentioned earlier i.e. intellectuality, emotions and attitudes have been reacted. The conciliator mistakes that derived from people in conciliation are poor in communication skills, poor attitudes toward the disputed parties and lack of emotion intelligent.

Firstly, poor communication skills detected when conciliator fail to deliver messages and objectives of conciliation clearly and precisely. They communicate in low voice-tone with quick pace which parties in got confuse and lost. They should speak calmly, clearly and precisely when explain something and avoid shaky voice which will tarnished another people confidence on them. In some case, they tend to speak with elevated voice when they angry which is a big “No”. Communications skills also involving the behaviour of listening skill during conciliation. The conciliator tends to interrupt abruptly when one the disputed parties speak, he/she must listen carefully by taking facts of the case and not make interruption. Some of the conciliator make a prejudicial comment which is lead to loss of trust from the disputed parties.

Secondly, poor attitudes toward the disputed parties. Be Fair, impartial and integrity are important during the conciliation. Unfortunately, there are some conciliators act unfairly by giving statements biased to one side instead of being natural. Some of the conciliator make a prejudgement by looking at the appearance and background of the people. For example, they tend to look

down on people with lower position or with lower educational backgrounds. The conciliator also sometimes fails to be integrity in the sense that they will disclose the private info of one side to the other side. Some of them also take bribe from one parties then they will bias toward the side that bribed them.

Thirdly, lack of emotion intelligent (EI) when the conciliator fails to understand other people emotion during a conciliation. So the advice or opinion from the conciliator will loss of empathy. Failure in EI also mean they will find difficult to detect the weakness and the strength of parties in dispute.

Problem during conciliation is there to settle with. So as a good conciliator he/she must do anything to help people in the dispute to find an amicable solution but sometimes they made mistakes when dealing with this. They fail to response quickly into the disputed issues. This thing happened when the conciliator fails to use appropriate and effective questioning method which are open questions, closed questions, funnel questioning, circular questioning and hypothetical questioning. When they fail to apply the right method of questioning then the core problem and the real differences between the parties cannot be established. The conciliation is the private and confidential session means only disputed parties in conciliation should know all the shared information but sometimes the conciliator shared with outsiders. Make matter worse that outsiders are someone related to the parties in the disputes such as their relatives, neighbours and so on. Hence will lead to bad perception of other people toward that conciliator, people will have tagged him/her with unethical and dishonesty conciliator which is contradict with the main code of conciliator which is being integrity.

Usually the mistakes from the conciliator happened because of the process of conciliation itself when they fail to know the limits and scope of the process. They also fail to notify the disputed parties on these matter. When these three side of people in dispute fail to know exactly and clearly, thus mistake will occur such as the conciliator will give advice beyond his role as a conciliator or mediator and many more. Mistakes also can be traced back to early stage of

conciliation process when the conciliator fail to inform the disputed parties the process of conciliation and its value to them in seeking to reach an agreement. The conciliator must make employer/representative and employee/trade union known their role as conciliator and mediator and not a judge who will make decisions or judgement for them. The mistakes also occur when the conciliator fail to control the disputed parties when there is heat argument between them mainly when one of the party act or argue aggressively. As conciliator they must have full knowledge of industrial related issues namely political environment, economic environment, technological environment, social and cultural environment and law environment. Even though the labour laws are not a crucial during conciliation, but as a conciliator they should know about them. So the mistake happens when the conciliator fails to give appropriate advice practically and legally.

Behaviours To Be Avoided During The Conciliation/Mediation Process.

As far as conciliation concept concerned, there are some key qualities of conciliator which are integrity, impartiality, ethics, qualifications and communications skills. In searching of amicable solution between 2 disputed parties is not easy so that being conciliator they must strive to improve themselves according to the 5 keys I mentioned before.

During conciliation sometimes the conciliator itself do mistakes through their behaviour toward disputed parties which can lead to negative impression and perception on them. Therefore, several behaviours to avoided by the conciliator/mediator during the conciliation process which could be explained by looking at the elements of communication involved namely verbal, non-verbal and non-vocal.

First element of communication which is constitutes about 7% is verbal communication. The conciliator cannot use language that cannot be understand by only party in the dispute. In other word they must use neutral language that understand by all the related parties in conciliation. In addition, the conciliator cannot use unethical and bias words such as racist remark,

gender discrimination, burglar words and so on. The use of polite and cushioning language is a must. When do a questioning process the conciliator must avoid leading question that a question that prompts or encourages the answer wanted such as "You wouldn't want any further delay would you?". The conciliator also must avoid to use multiple questions where they asking more than one question and not allowing enough time for thought like "Would you be able to get a job elsewhere and how do you feel about moving?". They also must avoid to questioning with why that make people defensive in the sense that they try to justify themselves from your perception for instance "why don't you respond?". The conciliator also must avoid to use more closed questions such as "Does your boss intimidate you?" but try to use more on open question such as "Tell me the relationship you have with your boss?". Cross examine the statements of one party to another party in the disputes is also should be avoided.

Bad behaviour that must be avoided by conciliator also can be found in the second elements of communication which is non-verbal that constitute about 55% in communication. Non-verbal communication is the behaviour without voice such as eye contact, posture, gesture and facial expression. Failure to implement the correct non-verbal communication will lead to loss of trust and respect from the disputed parties. For example, no eye contact toward a particular party/person when they are speaking will make they think that the conciliator not serious in handling their problems. Same goes to inappropriate posture, gesture or facial expression might lead to the wrongful perception by the disputed parties. The skill that involve all these aspects of non-verbal elements is effective listening. The conciliator should not interrupt other people when they are speaking. They conciliator also must do not allow interruptions from other people when other people are speaking. When other people are speaking the conciliator must listen carefully and actively and not daydream and don't remain absolutely still and unmoved without body language and eye contact toward the one who was speaking at that time. They cannot simply change the topic and stereotype toward the disputed parties in conciliation when there is an over-generalized belief about a particular category of people. Don't make a judgement toward the parties in the disputes or prejudgement

and prejudice toward them. The conciliator also must try to avoid argue with the disputed parties and let themselves be distracted by heated argument or aggressiveness of parties in the conciliations. Dealing with people who come to us to seeking help and advice sometimes can make us be paternalistic and think they know nothing or belittle them by rejecting their opinion and statements.

The third elements of communication that can describe the behaviour to avoid by a conciliator during a conciliation process are non-vocal of communication. It was constituting about 38% in communication such as visual, auditory, kinaesthetic, pitch, pace, volume and emotion. These elements are very crucial to maintaining calmness and coolness of the conciliator. The conciliator must avoid anxiety and low confidence. So that they must avoid to use shaky voice, speak with quick pace and low in volume. In other hand they must speak confidently with confident pace and volume. They must always act calmly even there is heated argument happen. When conducting a conciliation please avoid stress, anxiety and low self-esteem because the conciliator is the problem solver not a problem maker. They must act confidently, speak confidently and look confident then all the people in the conciliation process going to feel confidence on conciliator.

In conclusion, conciliator also a human being so that they cannot avoid making mistakes. Moreover, they are also human being who have emotion that vulnerable to other people actions and words. Sometimes people will learn from mistakes and improve themselves, same goes to conciliator. In addition, skills and knowledge can be improved by time which we called it a precious experience. In brief made mistakes are normal because we are human but if we fail to learn from that mistake and do same mistakes in the future are a big loss to ourselves and other people around us (in this case are disputed parties namely employers/employer representatives and employees/trade unions). A good conciliator must learn from mistakes and always try to avoid the mistakes and behaviours that was mentioned above.

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