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Contribute to Collaborate

SMN publishes Collaborate monthly, and we encourage you to contribute.

For submission guidelines contact Toni Freitas at:

collaborate@scottishmediation.org.uk

The submission deadline for the next issue is:
Friday 22nd August.

The Scottish Mediation Network has as its purpose the promotion of mediation of all forms in Scotland. We believe that mediation is an underused option. SMN's longer-term vision is to embed mediation in to the way conflicts of all kinds are resolved in Scotland.

CHANGES TO SMN AND SMR WEBSITES

The Scottish Mediation Network is planning some exciting improvements to the Scottish Mediation Register (SMR) and the Find a Mediator Map located on the SMN website. By the end of 2008, the following changes will go into effect:

- The Scottish Mediation Register and the 'Find a Mediator' Map on www.scottishmediation.org.uk will merge into one.
- Not-for-profit mediation services will be allowed to Register.
- One fee for SMN membership and SMR registration will be introduced by 1st April 2009.
- There will be no renewal fee for existing Scottish Mediation Registered Mediators until April 2009.
- The 'Find a Mediator' map search functions will be improved.
- Registered mediators and mediation services will appear first in the 'Find a Mediator' search results.
- Free basic listing will be offered for all mediation services.

The Board of the Scottish Mediation Network and the Standards Board of the Scottish Mediation Register (SMR) have agreed to the changes as detailed below.

Merge the Find a Mediator Map on the SMN website with the Scottish Mediation Register.

The re-design aims to improve the navigation and search features so that they work well for users. The intention is that the Find a Mediator Map will become the only source promoted by the SMN for finding a mediator in Scotland. Registered mediators will be clearly identified. Their entries will display more information about them than entries for non-registered mediators and services. A search option to see only Registered mediators will also be available. This expanded Map will reside where the current [Find a Mediator Map](#) is located on the Scottish Mediation Network website.

Permit SMR registration of mediation services that certify that they operate on a non-profit basis.

That is to say, they are run by a charity or a public body which operates other than for profit making. It is likely that this will include Family Mediation Scotland services, Community Mediation Services run by Sacro and local authorities and ACAS.

Combine the membership subscription for the

SMN and the registration fee for the SMR. Basic listings for mediation services will be free; then there will be a charge for SMN membership; and a higher charge for both SMN membership and Registration. The collection and accounting will be as automated as possible. The combined membership and registration will come into effect on 1st April 2009. In the meantime, while the improvements are being made, all those who are Scottish Mediation Registered Mediators will not need to pay a renewal fee.

Charge nothing for a basic listing, which will display only the name, location and telephone number of the service (no more than in the phone book). Each higher category will display progressively more information. There will be a clear division in the quality of the entries between each category.

Improve the usability of the Find a Mediator Map.

For instance, it is likely that the SMN website will distinguish more clearly the sections for the public and the sections for mediators. The Find a Mediator Map will offer a wider text search using key words. There will also be a diagnostic questionnaire to answer the question "Is Mediation for Me?" which will then direct the user to the right part of the Map.

For further information about the [Scottish Mediation Register](#) [click here](#).

For further information about the [Scottish Mediation Network](#) [click here](#).



EUROPEAN PARLIAMENT ENDORSES MEDIATION DIRECTIVE

A Directive on certain aspects of mediation in civil and commercial matters was adopted on 23 April 2008. The purpose of the Directive is to facilitate access to cross-border dispute resolution and to promote the amicable settlement of disputes by encouraging the use of mediation and by ensuring a sound relationship between mediation and judicial proceedings.

The Directive is one of the follow-up actions to the Green Paper on alternative dispute resolution presented by the Commission in 2002, the other being the European Code of Conduct for Mediators established by a group of stakeholders with the assistance of the Commission and launched in July 2004.

Welcoming the adoption of this Directive Jacques Barrot, Vice-President of the European Commission Responsible for Justice, Freedom and Security, said: "Mediation can provide cost-effective and quick extra-judicial resolution of disputes in civil and commercial matters through processes tailored to the needs of the parties. Agreements resulting from mediation are more likely to be complied with voluntarily and help preserve an amicable and sustainable relationship between the parties."

BEST PRACTICE IN COMPLAINTS HANDLING

The Scottish Mediation Register requires all registered mediators to have a written procedure for addressing concerns and handling complaints. Carolyn Hirst, until recently a Deputy Scottish Public Services Ombudsman, gave a valuable insight into best practice in complaint handling at a recent SMN Practitioners' Forum. She outlines the session below and her slide presentation can be [found online here](#).

A complaint can be defined as an expression of dissatisfaction; mediation complaints may be about mediation arrangements or the mediation itself. Typical complaints include poor administration, failure to disclose conflicts of interest, false advertising or breaching confidentiality.

An unsatisfied complainant usually tells 10 to 25 people about their bad experience. This matters as reputation is important to a mediation provider. However, a provider who truly welcomes, values and uses complaints

The Commission proposed the Directive in October 2004 (IP/04/1288). The Directive facilitates recourse to mediation by strengthening the legal guarantees accompanying it, thus giving real added value to citizens and businesses in the European Union. The key components of the Directive are as follows:

- The Directive obliges Member States to encourage the training of mediators and the development of, and adherence to, voluntary codes of conduct and other effective quality control mechanisms concerning the provision of mediation services.
- The Directive gives every Judge in the Community, at any stage of the proceedings, the right to suggest that the parties attend an information meeting on mediation and, if the Judge deems it appropriate, to invite the parties to have recourse to mediation.
- The Directive enables parties to give an agreement concluded following mediation a status similar to that of a Court judgment by rendering it enforceable. This can be achieved, for example, by way of judicial approval or notarial certification, thereby allowing such agreements to be enforceable in the Member States under

to improve will be more successful than one who does not. So good complaints handling makes good economic sense.

Good complaints handling is as much about approach and attitude as about process and procedure. The Scottish Public Services Ombudsman (SPSO) has a [good practice website](#) called Valuing Complaints and summarises the process characteristics of good complaints handling systems as:

- Accessible: clear, free, easily understood, available to all.
- Transparent: impartial, independent, auditable.
- Simple: few steps as necessary, minimal hand-offs, properly documented.
- Evidence-based: driven by facts, not assumptions.
- Respectful: values complaints, respects complainants, manages unacceptable behaviour.

existing Community rules.

- The Directive ensures that mediation takes place in an atmosphere of confidentiality and that information given or submissions made by any party during mediation cannot be used against that party in subsequent judicial proceedings if the mediation fails. This provision is essential to give parties confidence in, and to encourage them to make use of, mediation. To this end, the Directive provides that the mediator cannot be compelled to give evidence about what took place during mediation in subsequent judicial proceedings between the parties.
- The provision of the Directive on periods of limitation and prescription will ensure that parties that have recourse to mediation will not be prevented from going to court as a result of the time spent on mediation. The Directive thus preserves the parties' access to justice should mediation not succeed.

Following the adoption of the Directive, Member States will be given 36 months to convert the new rules into national law.

For further information on the Directive and related articles [click here](#) and [here](#).

- Authoritative: credible, consistent, definitive with delegated authority.
- Standards-based: quality, timeliness, effective communication.
- Proportionate: flexible in method, appropriate to the circumstances.
- Demonstrable: reported, open to feedback, used to drive improvement.

A complaints process should be confidential, with clear time-scales and a staged approach including external review. It should set out how the mediation provider will redress a justified complaint, including offering a meaningful apology. A provider must look after any person complained about, but be prepared take appropriate corrective action where needed.

Carolyn Hirst now works on a freelance basis providing conflict prevention, management and resolution services. She can be contacted at Hirstworks@aol.com.

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MEDIATOR, EDUCATOR, OR BOTH?

Family mediators have been working with parents in Scotland for over 20 years, helping them to work out arrangements for their children after separation. Parents within mediation often ask for information and advice – how to tell their children about the separation, how to go about setting up two homes, what do children need from them? The role of a mediator is not to give advice, or steer parties to a particular outcome, and time is very limited within mediation to pass on information.

In response to this quandary, Relationships Scotland (the new national body formed through the merger of Family Mediation Scotland and Relate Scotland) has developed a new service for parents: Parenting Apart – Parent Education Workshops. Parents can attend the same or different workshops to find out information on how to help their children to thrive, not just to survive, separation.

The Parenting Apart workshops have been developed following input from American

divorce coach and parent educator, Christina McGhee, known to many for her 2006 Channel 4 series 'How to divorce without screwing up your kids'. Group facilitators have also received training from the Institute of Family Therapy in London. During the last week of May, in partnership with two collaborative Family Law firms, Relationships Scotland was able to host a return visit from Christina McGhee to Scotland. Christina presented a series of events based on her experience of running such groups in Texas, to raise awareness amongst politicians and policy makers, and to help launch the new Parenting Apart groups.

If you are working with families in transition, particularly as a result of separation or divorce, they might be interested to hear more about the emotional process of separation, how to put their children's needs first, and how to develop a working relationship with their ex-partner. Encourage them to contact their local family mediation service or

call Rosanne Cubitt at Relationships Scotland 0845.119.2020.

Christina McGhee's recent visit and the launch of our new Parenting After Separation Groups - Parenting Apart.

You can read more at [The Herald online](#).



Christina McGhee (left) and Rosanne Cubitt at the recent launch of our the 'Parenting After Separation Groups: Parenting Apart.'

THE LATEST SMN NEWS



New Development Officer

SMN is delighted to announce the appointment of its new Information and Evaluation Development Officer to take the lead on a number of SMN's Scottish Government funded tasks. After a rigorous selection process, SMN has appointed David Adam who started on 14th July 2008. David is keen to get started on an ambitious programme of work.

This will leave the SMN without administrative

support for a period. To cover immediate needs, SMN invites applications for a part-time, temporary post providing support to the SMN office and the development team. This will allow SMN to review its longer term staffing needs. [For further details, click here.](#)

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The Future of Commercial Dispute Resolution

Scottish Mediation Network's Director Ewan Malcolm recently spoke at the conference 'The Future of Commercial Dispute Resolution' organised jointly by the Law Society of Scotland and the Chartered Institute of Arbitrators Scottish Branch on Wednesday 11th June 2008. He covered:

- The current role of mediation in commercial disputes in Scotland
- Some recent and ongoing influential developments
- Possible future roles for mediation in commercial disputes

The full text of the speech is available [here on the SMN website](#).

NEW BOOK

Eye of the Storm Leadership

By Peter S. Adler PhD

For the past few years, Peter Adler has been working on a writing project called 'Eye of the Storm Leadership: 150 Ideas, Stories, Quotes, and Exercises on the Art and Politics of Managing Human Hurricanes'. The book ties three of his favorite themes together: leadership, conflict, and politics.

The book is being offered for sale [online here](#). It can be downloaded electronically, accessed online, or purchased on a CD/DVD set. In the same vein, you might also find a much shorter piece called "Twelve Questions for Hillary Clinton, John McCain, and Barack Obama on 'Eye-of-the-Storm Leadership'" of interest. It can be found at [online here](#).

Peter Adler visited Scotland in September 2007 and was keynote speaker and trainer at two events run by Children in Scotland as well as guest speaker at a Scottish Parliament event organised by SMN. Dr Adler is president of the Keystone Center which has a 30-year history of successfully applying consensus-building strategies to energy, environmental, and health-related policy problems.

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Training & Events

Conflict at Work Courses

Glasgow: 10 October 08

Aberdeen: 17 October 08

Edinburgh: 5 December 08

This practical one-day course introduces a fresh new approach to the familiar problem of workplace disagreement and conflict. Even with clear procedural guidelines to manage conflict, everyone benefits if we have the confidence to recognise and deal with the early stages of conflict, avoiding escalation and improving working relationships.

Course Aims: You will learn about the skills and techniques of effective mediators in an enjoyable, interactive day while also having the opportunity to consider their own 'conflict style'. **Lead Trainer:** Charlie Irvine

Course fee: £350+VAT, discounts available.

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Dealing with Challenging Situations

Aberdeen 21 November 08

Staff in organisations dealing with individuals under stress may find themselves on the receiving end of anger, threats and high emotion.

Five-Day Mediation Skills Course

Scottish Community Mediation Centre*

25, 26 Sept., 2, 3, 9 Oct. 2008

Edinburgh

This is a mediation skills course for those who intend to use mediation in resolving disputes, providing the essential knowledge base to enable people to begin developing their practice. This is an assessed, certificated course.

CI Arb Mediation Symposium

'What Mediators Need'

24th September 2008

9.30 to 5.00pm

London

You are invited to attend this special CI Arb one-day conference prepared by mediators, for mediators. A day for mediation professionals to review and explore together their

Course Aims: This practical one-day course provides a clear understanding of anger and its effects, the most common mental health issues and a risk assessment tool that protects staff while empowering them to make good decisions. It also introduces the skills needed to defuse anger and conflict, with the opportunity to practice these in a safe and supportive environment. **Lead Trainers:** Charlie Irvine & Alison Ebbitt

Course fee: £350+VAT, discounts available.

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Six-Day Mediation Skills Course

4,5 Sept, 2,3, 23, & 24 Oct. 2008

Dunkeld Hilton

This practical six-day skills course will provide you with an understanding of all aspects of mediation and enable you to develop a "green L plate" level of competence as a mediator with an appropriate certificate.

Course Aims: You will learn the skills and techniques of effective mediators in 3 enjoyable, interactive two day sessions and have

the opportunity to consider your own 'conflict style'. Further practice opportunities are available through the Catalyst Mediation monthly CPD practice development programme of role-play and discussion.

The sessions are fully interactive, involving discussion, group activities, demonstrations and role-play in a supportive environment. Notes and course reading are provided for pre-reading and subsequent reference. There will be ample opportunity to ask questions about any topic. **Lead Trainer:** Charlie Irvine.

Course fee: £3,000, discounts available.

For all the above courses, go to [Catalyst's website](#) for an application form, or contact:

Jeremy Scuse

Catalyst Mediation

Tel: 0781.114.1482

jeremy@catalystmediation.co.uk

If you are unable to make any of the 2008 dates, there are also dates available for all the above courses in 2009!

The course follows the mediation process from first contact with the service to closing a case. Areas covered include: clients expectations of mediation and of mediators; mediator impartiality; and 'confidentiality': what does it mean?

Role-play is used to practise first visits, interrupting arguments, preparing clients for joint meetings, and handling difficult behaviour.

Cost: £600. For further information about this course, contact:

Robert Lambden

Scottish Community Mediation Centre*

21 Abercromby Place

Edinburgh EH3 6QE

Tel: 0131.624.9200

Email: info@scmc.sacro.org.uk

**formerly known as Community Mediation Consultancy + Training Service.*

common experiences and issues and to discuss how to handle the key challenges for the future.

Topics and speakers will include: an update on legal developments affecting mediators; latest issues and views on mediation standards and regulation; a review of court schemes and pilots; cross-cultural issues in mediation; and marketing yourself as a mediator.

Cost: Members £100+VAT, Non-members £130+VAT

For further information and a booking form, [go to their website](#) or contact:

Chartered Institute of Arbitrators

Tel: 0207.421.7444

membership@ciarb.org

www.ciarb.org

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If you would like this newsletter to be sent to anyone else please contact us at:

Scottish Mediation Network, 18 York Place, Edinburgh, EH1 3EP

Tel: 0131 556 1221 | Email: collaborate@scottishmediation.org.uk | Website: www.scottishmediation.org.uk

If you would like your name to be removed from the mailing list, please let us know.