

Inside this issue:

Civil Court Consultation	1
Booking for EMC 2008	2
Conflict Resolution Day in Serbia	3
ProjectScotland Trees	3
English Judge Promotes Mediation	4
Training	4-5

Contribute to Collaborate

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

For submission guidelines contact Toni Freitas at:

[collaborate@scottishmediation.org.uk](mailto:collaborate@scottishmediation.org.uk)

The submission deadline for the next issue is:

**Mon. 28 January 2008.**

*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.*

Consultation Paper on the Civil Court System in Scotland

The Scottish Civil Courts Review, under the chairmanship of the Lord Justice Clerk, the Rt Hon Lord Gill, launched a wide ranging consultation paper on the civil court system in Scotland titled: 'Modern Laws for a Modern Scotland'.

In his foreword to the Consultation Paper Lord Gill explains that he has decided to publish the Consultation paper at this stage in order to inform interested parties of the principal issues that had been raised with the Review, to report on the research undertaken to date, and to set out practicable options for reform.

The Consultation paper deals with four related themes: access to justice, the cost and funding of litigation, the structure of the civil courts and the procedures adopted by the courts. The Consultation paper asks a number of questions on each of these topics. It does not aim to draw conclusions about the potential options for reform but to identify what they are and whether they are worthy of further examination.

The Consultation paper invites views on issues such as whether:

- The civil justice system should be designed to encourage early resolution of disputes, preferably without resort to the courts
- The use of mediation or other methods of dispute resolution should be extended
- Whether there are gaps in the current provision of civil legal advice or representation
- There should be more "self help" services for people who do not have a lawyer
- Low value cases should be dealt with in a different way and, if so, whether this should be within the existing court structure or separate from it
- There should be a separation of criminal and civil business
- The Court of Session and the sheriff court should retain their existing jurisdictions
- Modern communications and information technology can be harnessed to improve efficiency and access to the courts

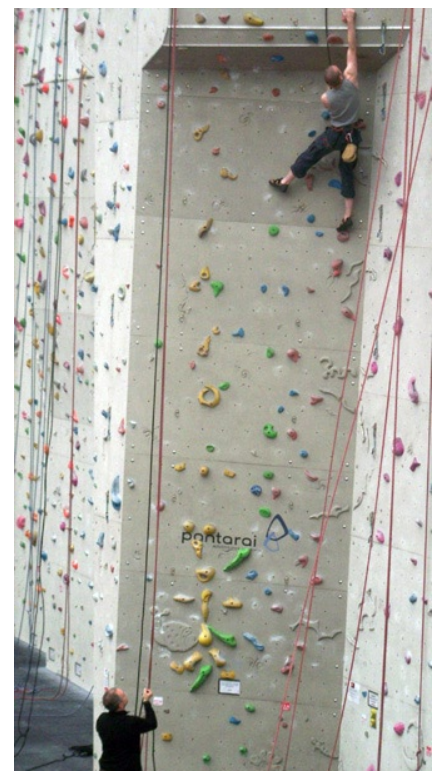
In launching the Consultation paper, the Rt Hon Lord Gill said: "I am pleased that so many people have taken the time to make submissions to the Review. We have tried to reflect the main themes in the Consultation paper, to summarise our research to date, and to set out the options for reform which we think are worthy of further exploration.

This Consultation paper is being issued to a wide range of organisations and bodies, including organisations which speak for consumers and litigants. We are especially interested in hearing from members of the public about their experiences of the civil court system. In this way we can ensure that their voice is heard and that their interests are central to any recommendations for reform that we make."

Responses to this consultation must be submitted by 31 March 2008. After that, the Review panel may conduct more specific consultations on individual topics before proceeding to their conclusions.

"It is extremely important, in my view, that everyone interested in the development of mediation in Scotland respond to the questions 1 to 5 in Chapter 5 of the Consultation," said Scottish Mediation Network Director Ewan Malcolm, who is a member of the Civil Court Review Policy Group. "This has been described as a 'once in a generation' opportunity to shape the Civil Courts system in our country. It is vital that the Review team hear from as many people as possible."

To read a full copy of the Consultation Paper and all relevant questions, [click here](#). You can read the background to [the review here](#).



SMN's Ewan Malcolm and David Adam (on the wall) at a recent staff Away Day at the Edinburgh International Climbing Arena.

## Booking Now Open for European Mediation Conference 2008

**European Mediation Conference 2008  
Building Relationships & Getting Results  
10 to 12 April 2008  
Waterfront Hall, Belfast, Northern Ireland  
[www.mediationconference.eu](http://www.mediationconference.eu)**

The Scottish Mediation Network and Mediation Northern Ireland are pleased to present this major international conference with exciting opportunities to discuss developments in the practice of mediation throughout Europe. This three-day conference is the conference not to miss in 2008!

Almost ten years ago in Belfast, on Good Friday 10 April 1998, international mediators were acknowledged for their contribution to a milestone in the peace process in Northern Ireland. Ten years later, on the anniversary of the Good Friday/Belfast Agreement, we are inviting mediators from across Europe to gather in the city's Waterfront Hall for the 2008 European Mediation Conference: Building Relationships and Getting Results.

### Conference Programme

The European Mediation Conference 2008 will offer a range of exciting and inspirational learning and networking opportunities.

Thursday and Friday, 10 and 11 April, will provide two full days of conference events. The mornings will see keynote speeches from leading experts and world renowned speakers in the practice of mediation. The afternoons will involve a blend of large discussion sessions and a diverse range of small workshop sessions. Keynote speakers include:

- **Professor John Paul Lederach**, eminent international mediator, academic and writer
- **Jan Egeland**, Special Adviser on Conflict Resolution to the UN Secretary-General and Director at Norwegian Institute of International Affairs
- **Ambassador Herbert Salber**, Director of the Organization for Security and Co-operation in Europe's Conflict Prevention Centre

We are pleased to have two conference comperes: Ruth Wishart, Distinguished Scottish Journalist and Broadcaster, and Frances McCandless, Director of Policy for the Northern Ireland Council for Voluntary Action.

More keynote speakers will be added to the programme soon! For complete information about keynote speakers, go to the [conference website](#).

### Training Opportunities

Saturday, 12 April will be a unique opportunity to further your mediation skills. From beginner to advanced sessions, this day will have a variety of opportunities for you to gain new skills.

You can see the complete list of training and workshop sessions to choose from on the [conference website](#). The organising committee is currently working on the final programme and details which will be on the website as soon as they become available.

By attending you will have the opportunity to:

- Advance mediation in the service of economic and social progress in a changing Europe
- Reflect on the task of building peace for Europe and the world
- Explore developments in the practice of mediation
- Strengthen relationships in the European mediation field
- Listen to and interact with experts in the mediation and peace-building fields

### About Belfast

Belfast has a rich cultural heritage and visitors attending this conference will find the people warm and charming with an infectious enthusiasm for life. You will be made welcome everywhere and you will be captivated by the diversity of life here.

Lonely Planet, one of the world's most influential travel guides, named Northern Ireland as a "Must See" destination for 2007. Belfast is a thriving, bustling, capital city on par with any in Europe.

However, Belfast is most known for its recent history of violent conflict, the legacy of which offers important learning for mediators in a changing Europe.

Belfast is easily reached by air from most major cities in the UK and Europe. Belfast has two airports—Belfast International and Belfast City. The [conference website](#) has details on airlines and travel routes.

### Who Should Attend?

- Mediation practitioners and trainers from throughout the UK, Ireland and the rest of Europe
- Local, national and international government
- Solicitors, advocates, and barristers
- Practitioners from associated occupations
- Policy and law makers
- Local authorities
- HR and NHS advisors
- College and university students

### Fees

The fee to attend the conference has been structured to offer excellent value for money. It offers delegates the most content and greatest value for the lowest possible cost. Book before 31 January 2008 to receive the Early Booking Discount! A saving of £60, approximately €84. The early booking rates are as follows:

One Day: £120, €167 approx.

Two Days: £220, €307 approx.

All three days: £270, €377 approx.

For your convenience, there are four ways to pay: by credit card, by Sterling cheque, by bank draft or by electronic funds transfer.

### Booking

You are encouraged to [book online](#). It is fast and easy, and will have all the complete conference information to help you make your choices. If you are unable to register online, then you can contact the conference organisers for a booking form in pdf format and post or fax it to the European Mediation Conference Office.

The secretariat office for the European Mediation Conference 2008 is there to help. They will be pleased to answer any questions you may have about any aspect of the conference, about Belfast or how to get here. The office is open Monday to Friday from 9.00 to 17.00 GMT. The best way to contact them is by email: [office@mediationconference.eu](mailto:office@mediationconference.eu). Telephone: +44 (0)28 9023 5001



## Conflict Resolution Day in Serbia

by Dragana Ćuk Milankov

Mediation as a practice has been present in Serbian society since the beginning of 2000. It is used mainly in schools, courts, institutions for social welfare, and in the local community. One of the main obstacles to making mediation accessible to all that could benefit from it, is the fact that the vast majority of citizens still do not know what it is.

So in October, the Alternative Dispute Resolution Center initiated the first Conflict Resolution Day in Serbia, in conjunction with International Conflict Resolution Day on 18 October. The idea was to introduce mediation and an alternative perspective on conflict management in general to the public, and to inform the public about services already established in different organisations and institutions in Serbia.

The Mediation Center of Belgrade's Center for Social Work, Serbian Association of Mediators, and Alternative Dispute Resolution Center organized the event in Belgrade, with support of the GTZ Belgrade office, Conflict Transformation and Youth Empowerment project.

Information about this event was disseminated through the media, intended to widely reach the public. Nevertheless, the audience for the event this year was mainly professionals in the field, from all over the country. Events

consists of two round table discussions and performances.

The first round table discussion dealt with challenges of conflict resolution in contemporary Serbia. Issues like creating standards in mediation practice, experiences in applying mediation in the social welfare services, mediation in the foster family programs, in the practice of lawyers, in the field of commercial disputes, and similar topics were addressed.

The second round table dealt with conflict management in youth programs. Among other issues, experiences in the application of victim-offender mediation in the institutions for minor offenders (correction facilities for minors) were presented, experiences in conflict management during the process of social inclusion of victims of trafficking in human beings, and tendencies in development of school mediation in Serbia. Part of this session was also a presentation of accomplishments of the first Serbian association of students, peer mediators, done by the youth themselves.

The most exciting part of the day was the performances! The Alternative Dispute Resolution Center in cooperation with peer mediators from Sveti Sava Secondary School created and presented a performance on different approaches to conflict resolution, in the form

of a participatory drama. Professionals from the Serbian Association of Mediators also presented simulations of the mediation process.

About twenty practitioners took part in creation of Conflict Resolution Day. Since most of the public were also practitioners, the most significant outcome of the event was sharing of experiences, networking, and development of further plans for collaboration and improvement of practice. Although effect on public through media should not be underestimated, since the event the Alternative Dispute Resolution Center has received few calls from citizens asking for help in overcoming different conflict situations.

Our intention is to make Conflict Resolution Day an annual event in Serbia, and to spread it to all parts of the country instead of been focused on the capital city. We invite you to exchange your experiences, in order to create an event more interesting and accessible to the public for Conflict Resolution Day in 2008.

Greetings from Serbia!

Contact details:

Centar za alternativno rešavanje sukoba (CARS)

Alternative Dispute Resolution Centre  
Bulevar AVNOJ-a 79, 11000 Belgrade

Phone: +381 11 31 321 31

Email: [dcukm@ptt.yu](mailto:dcukm@ptt.yu)

*Back to index.*

## Support a ProjectScotland Volunteer with a Christmas Tree

You can support over 300 Scottish charities in one go this Christmas by mentioning ProjectScotland when ordering your Christmas tree.

ProjectScotland is the revolutionary new organisation, which inspires young people to volunteer full-time. Our volunteering projects change their lives and aspirations, and their youth and energy give an enormous boost to the capacity of the voluntary sector and the communities in which they volunteer. The demand from young people is huge. Since launch in May 2005 ProjectScotland have exceeded targets placing over 1,700 young people into structured and rewarding place-

ments with over 300 non-profit organisations across Scotland.

Green Fir Christmas Trees have kindly agreed to give ProjectScotland 15% of every tree they sell. [Follow this link](#) to purchase your Christmas tree (free delivery in the central Edinburgh area!). Forward this website to anyone you know who would like to support young people volunteering in their community and ask them to buy their trees through Green Fir so that more young people in Scotland can take up the opportunity to develop their skills while helping others.

[www.projectscotland.co.uk](http://www.projectscotland.co.uk)



SMN's Toni Freitas at the opening event of the new Rainbow Landings, lorikeet exhibit at the Edinburgh Zoo.

## Judge Says of Mediation: "Try it more often."

At the Royal Courts of Justice, Lord Justice Ward advocates the use of mediation in a case that was first brought to court in April 2005, with an appeal judgement made in October 2007. The background of the case is as follows.

Mr Egan took delivery of a brand new Audi motor car from the Motor Services in March 2004. The following month, he tried to reject it on the ground that it was unsatisfactory. Motor Services refused to accept the rejection and, in due course, Mr Egan sued for the return of the purchase price and damages. His claim failed because the judge held that there had been nothing wrong with the Audi and Mr Egan had not been entitled to reject it.

The parties' positions had become entrenched and proceedings were begun in the Bristol County Court in April 2005. The particulars of the claim alleged a breach of the implied condition (pursuant to section 14 of the Sale of Goods Act 1979, as amended) that the car should be of satisfactory quality. The claim was for the return of the purchase price plus various incidental expenses which together came to about £35,000. Since the proceedings, the car has been returned to Mr Egan, who has sold it. The amount now in issue in this appeal is very modest, being limited to the difference between the purchase price and the second hand sale price, together with the incidental expenses. Only about £6,000 is at stake.

In his judgement of the appeals case, Lord Justice Ward clearly supports mediation, and firmly believes that solicitors handling cases

such as this should suggest mediation from the outset of the case.

"What I have found profoundly unsatisfactory, and made my views clear in the course of argument, is the fact that the parties have between them spent in the region of £100,000 arguing over a claim which is worth about £6,000. In the florid language of the argument, I regarded them, one or other, if not both, of them, as 'completely cuckoo' to have engaged in such expensive litigation with so little at stake.

"At the time of writing this judgment I rightly do not know whether any, or if so what, attempts have been made to settle this case and the remarks that follow are of general application. I raise that matter again in this judgment to make the point, as firmly as I can, that this is a paradigm case which, if it could not have been settled by the parties themselves, customer and dealer, then it behoved both solicitors to take the firmest grip on the case from the first moment of instruction. That, I appreciate, may not always be easy, but perhaps a copy of this judgment can, at the first meeting, be handed to the client, bristling with righteous indignation, in this case the customer who has paid a small fortune for a motor car which does not meet his satisfaction, and the dealer anxious to preserve the reputation of his prestige product.

"This case cries out for mediation', should be the advice given to both the claimant and the defendant. Why? Because it is perfectly obvious what can happen. Feelings are running high, early positions are taken,

positions become entrenched, the litigation bandwagon will roll on, experts are inevitably involved, and, before one knows it, there will be two/three day trial and even, heaven help them, an appeal. It is on the cards a wholly disproportionate sum, £100,000, will be to fight over a tiny claim, £6,000.

"And what benefit can mediation bring? It brings an air of reality to negotiations that, I accept, may well have taken place in this case, though, for obvious reasons, we have not sought to enquire further into that at this stage. Mediation can do more for the parties than negotiation. In this case the sheer commercial folly could have been amply demonstrated to both parties sitting at the same table but hearing it come from somebody who is independent...

"The cost of such a mediation would be paltry by comparison with the costs that would mount from the moment of the issue of the claim. In so many cases, and this is just another example of one, the best time to mediate is before the litigation begins.

It is not a sign of weakness to suggest it. It is the hallmark of commonsense. Mediation is a perfectly proper adjunct to litigation. The skills are now well developed. The results are astonishingly good. Try it more often."

*Extracted from judgement of Lord Justice Ward in Egan and Motor Services (Bath) Ltd: 3 October 2007, [2007] EWCA Civ 1002. To read the whole judgement, [click here](#).*

## Training

### Mediation in an Educational Context 8, 11, 22, 28 & 29th February 2008 Edinburgh

A five-day mediation skills course for teachers, social workers and others working in an educational setting.

Tutors: Richard Hendry, Ian McDonough. Richard Hendry is Sacro's National Co-ordinator, Work with Schools and Ian McDonough is their Mediation Adviser. They have been responsible for designing and running training courses in mediation for more than ten years.

This course is designed to provide participants with essential knowledge of adult and peer mediation and the basic mediation skills necessary to facilitate the creative resolution of disputes. It is suited to service management and teaching staff who have responsibilities for dealing with parent/staff, staff/staff, pupil/staff or pupil/pupil conflict in the primary, secondary and special school sectors.

All participants who successfully complete the course will be issued with a Sacro Mediation Skills Certificate. This course shadows the

Scottish Vocational Qualification in Mediation (level 4), for which Sacro is the first organisation in the UK to be an accredited provider.

**Cost:** £600 inclusive of course materials, publications, lunch and refreshments.

For further information and to book a place, contact:

Robert Lambden  
Sacro Consultancy and Training Service  
21 Abercromby Place, Edinburgh EH3 6QE  
Tel 0131 624 9200

[info@cmconsultancy.sacro.org.uk](mailto:info@cmconsultancy.sacro.org.uk)

*Back to index.*

Training (cont.)

**Verbal Acupuncture  
Are You Hitting the Spot?  
20, 27 February & 5 March 2008  
Glasgow**

This three-day course is designed for experienced mediators who wish to brush up on their existing skills and add new ones to their 'toolbox'. Throughout the course you will be encouraged to reflect on and share your own practice. The training will be creative and practical, using a range of dynamic techniques.

Participants will:

- Explore how to adapt your language and body language to suit your clients' needs
- Develop your ability to interpret your clients' words and gestures
- Heighten your capacity to deal with challenging clients
- Improve your skills of recognising the positive in client interactions

This course will see Louise Brown and Amy McDonald of Unlimited collaborate with Sacro mediators Ian McDonough and Eileen Schott.

**Cost:** £360. Deposit: £70. Balance due on completion of course.

For further information contact:

Robert Lambden  
Sacro Consultancy and Training Service  
21 Abercromby Place  
Edinburgh EH3 6QE  
Tel 0131 624 9200  
[info@cmconsultancy.sacro.org.uk](mailto:info@cmconsultancy.sacro.org.uk)

**Advertise your event here!**

Is your organisation putting on an event or training course that would be of interest to the mediation community? It is free to advertise in Collaborate, and there are over 800 direct recipients of Collaborate!

If you would like further information about how to advertise or contribute an article, contact [Toni](mailto:Toni).

**Workplace Mediation Training Courses  
25 – 27th Feb. (Unit One)  
& 26- 28th March (Unit Two) 2008  
Regents College Conference Centre  
central London**

**19-21st May & 18- 20th June 2008  
Residential in Derbyshire**

Do you want a long established and accredited training to carry out workplace mediation? Do you want highly effective conflict resolution skills to integrate into your present role? Then you may be interested in booking a place on the workplace mediation training course. Unit One can be done on its own as a very useful introduction and skills training. Both Units 1 and 2 need to be completed for the OCN National Certificate.

PMR Ltd can also run these courses either in-house at your organisation or as public courses which you can book a place on directly for yourself or for your staff.

Book your place on one of these courses now via our web page which also has a lot of useful information, articles, videos and books.

PMR Ltd  
Tel: 0162.677.6857  
[www.workplacemediation.co.uk](http://www.workplacemediation.co.uk)  
[admin@workplacemediation.co.uk](mailto:admin@workplacemediation.co.uk)

**Mediation Awareness Workshops & Presentations**

Don't miss out on your chance to move mediation forward in your area!

Are you curious how mediation works? Is your organisation looking for a new solution on how to resolve conflict? The Scottish Mediation Network is available to come to your area or place of work to deliver a workshop or a presentation on mediation. We are happy to discuss how we can tailor a session to help you and your colleagues learn more about the uses and benefits of mediation.

If you have wondered how mediation might be able to help in your community or your work, then don't hesitate to contact us. To arrange a FREE workshop or presentation, please email [Toni](mailto:Toni) for further information.

Previous attendees said, "The atmosphere was very friendly, and we got through a huge amount of work in a short time", "We need to move people from the perception that what matters is winning and move to what really matters—peace of mind!"

**Sacro Mediation DVDs**

Sacro have two free DVDs which have been recently produced with sponsorship from the Scottish Executive and North Ayrshire Council. The first is a brief (2-3 mins) general introduction to Community + Neighbour Mediation, and is suitable for playing in public waiting areas, staff meetings etc; the second is a training resource portraying the history of a neighbour dispute from its beginnings to its resolution through intervention by a mediation service.

If you require copies of these DVDs please do not hesitate to get in touch. Contact our service by e-mail:

[info@cmconsultancy.sacro.org.uk](mailto:info@cmconsultancy.sacro.org.uk)

DIARY NOTE: The office of the Scottish Mediation Network will be closed for the holidays from 22 December 2007 to 6 January 2008.

[Back to index.](#)

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

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Tel: 0131 556 1221 | Email: [collaborate@scottishmediation.org.uk](mailto:collaborate@scottishmediation.org.uk) | Website: [www.scottishmediation.org.uk](http://www.scottishmediation.org.uk)

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