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Strathclyde Mediation Tournament "Best Ever" says INADR Founder

The 16th International Law Student Mediation Tournament took place at Strathclyde from 5-8 April, bringing together 126 students in 42 teams from 15 countries. The annual event, started by the International Academy of Dispute Resolution (INADR) in 2002, aims to train law students in the peaceful resolution of disputes. INADR's founder, Professor Richard Calkins, pronounced the Glasgow tournament 'the best ever' during the civic reception in Glasgow City Chambers. Calkins was particularly impressed by the very high standard of the students as well as the care taken by the judges in their feedback: a tribute to the Scottish and UK mediation community.

Participants came from India, Singapore, Turkey, Poland, Russia, Lithuania, Greece, Ireland, Brazil, Scotland, England, N Ireland, Ireland, Canada and 15 US states. The award for best mediator team went to Middlesex University and for best advocate/client team to William & Mary Law School, Virginia, USA. Strathclyde Law School was delighted to reach the semi-final round - congratulations to Holly McLean, Emma McGeorge and Clare Sweeney and their coaches, Charlie Irvine and Alison Ebbitt.

Prof Nicole Busby, Head of the Law School, said:

The success of the INADR Mediation Tournament showcases Strathclyde's position as a global law school that prides itself on student-led experiential learning which enables the development of practical work-based skills. I would like to congratulate all those who participated in and contributed to this event.



Strathclyde Mediation Tournament Success cont'd

Prof Douglas Brodie, Dean of the Faculty of Humanities and Social Sciences, added:

Strathclyde was delighted to host such a truly international event involving students of the highest calibre from so many different countries.

Special thanks go to Alexis Hunter Family Law and Dallas McMillan for their sponsorship of the event. The Law School would also like to thank Glasgow City Council and Bailie Fariha Thomas for providing a fantastic Civic Reception for our international guests.

Mediation colleagues would particularly like to thank Charlie Irvine who put an amazing effort into making the tournament the success it was.



Stuck for something to do on General Election evening?

Keen to use the time constructively?

Join Charlie and John in Conversation!

Thursday 8 June, 1830-2000, Refreshments will be provided.
Edinburgh Training Centre, St Mary's Street

Join Charlie Irvine and John Sturrock as they reflect in conversation about what they learned at the recent annual conference of the American Bar Association Section on Dispute Resolution.

This is reputedly the largest conference of its kind in the world, with hundreds of participants from around the globe and scores of workshops and seminars.

For a glimpse at some of the topics, read John's blog [here](#):

Event sponsored by Core Solutions, the University of Strathclyde and Scottish Mediation.

Attendance is free but a donation of £10 on the evening to help with costs will be welcomed.

Register on Eventbrite [here](#):

Making a Difference in Education

Graham Boyack

The attainment of Scotland's young people in education has been the focus of a lot of political debate recently. Rightly there is a focus on early years in the National Attainment Framework through the Curriculum for Excellence and Getting It Right For Every Child. It was in that context that I was delighted to hear about an approach focussing on secondary school pupils that has been having great success in improving attendance and attainment for those involved.

The approach is being used by Midlothian Council's Mediation Service which is a part of the Community Safety and Justice Partnership. Since 2015 the service has been helping to improve young people's attendance at school using mediators employed by the council. The approach involves mediation between the young people, their families, and the school to find solutions that can help improve attendance. To date 70 referrals have been made to the service with several very successful outcomes for all those involved.

The object of the mediations is to engage, in the first instance with the young person, to explore how attendance, attitude and engagement at school might be improved. In doing so barriers to attendance will be examined and the curriculum/courses taken will be a key part of conversations. The mediation service will also engage with families and the school and one of the key features of the scheme is that the mediators are independent and regarded as so by the young people involved. The outcomes of the mediations form a contract for all involved and are likely to include attendance at school, behaviours in the school and the community, addressing barriers to attendance and the curriculum/course.

The results of the mediations are encouraging. In addition to the items referred to in the contracts other issues have been identified through the process which have

included identification of dyslexia, engagement with parents who themselves did not attend school, a reduction in offending and through tailored curriculums, a direct route into employment, and that's just the direct impacts identified. For me what seemed very powerful is the potential for such interventions to have wider impacts such as breaking the cycle of low attainment, reducing homelessness, helping to build positive relation-



ships, and being included.

A number of examples were given of individual stories but one particularly struck me as it seemed a solution that fitted the needs of everyone involved. A 13-year-old with a 46% attendance rate, a record of exclusions and an involvement in crime made a significant turnaround. He now has an attendance rate of 73.5%, is engaged at school, has an enhanced curriculum, and no further offences have been committed. The curriculum is now solely focussed on maths and English (a minimum for everyone) and catering. The catering has involved work placements from which employment is expected to follow.

The responses of the young people and families have been very positive, examples include:

"The mediator has kept me out of trouble, changed my subjects and has really helped me."

Making a Difference in Education cont'd

Graham Boyack

"Understanding the way forward for me and my son has been brilliant."

Having previously attended presentations highlighting the need to have a joined-up approach it was heartening to see that Children and Families, Social Work, Schools, GP's, the Police, and other agencies are all involved in making referrals to the service. Like other areas where mediation has been used, it seems the ability of the mediators to sit between schools, parents, and the young people as someone to support that conversation, ensuring that everyone knows they are being listened to is very important. Once that trust has been gained, being able to explore the 'what if this succeeds' and 'what if it doesn't' questions in a safe space also seem to be very important.

For councils, it seems that given the outcomes investment in such services makes economic sense, but for me what makes the service compelling is the potential to change lives. Even if we get education

"right" for young people in the early years there will still need to be ways of getting people back on track once they reach secondary school.

In taking on this work the Mediation Service has been innovative in training volunteer mediators from other council departments to take on the work around community mediations in their working time. The mediators felt it was having a positive impact on their work in their own departments too with no shortage of opportunities to use their listening and other conflict resolution skills.

Five-Day Mediation Skills Course Edinburgh 1, 2, 8, 9, 15 June 2017



Designed for people who will be using mediation skills in their work, this course is accredited by the Scottish Credit and Qualifications Framework together with the Scottish Community Mediation Network. The course provides information on key concepts in mediation and the opportunity to discuss and practice basic skills in a safe, relaxed atmosphere. It covers the whole mediation process from first contact with the service to closing a case. The mediator's role is explained and practised using typical scenarios for first visits to explore mediation as an option, preparing clients for joint meetings and handling difficult behaviour at a meeting. The course is assessed based on activities from day three onwards culminating in a full role-play of a mediation meeting on day five.

To book a place or for more information please contact: Robert Lambden at Scottish Community Mediation Centre: e-mail infoscmc@sacro.org.uk Course Fee is £600 per participant

Mediation Stories

John Sturrock

An assistant mediator's story:

"My experience, as an assistant mediator in an actual mediation, was remarkably similar to Core's flagship training course. So much so that, at one point in the morning, I remarked to our mediator, 'My goodness, this is just exactly like the course; how do you manage to make the course so similar to the real thing?' The sense of the dispute opening out and then narrowing again felt the same, as did the way parties engaged with the process (and with advisers).

"During the course, we discussed many times how it's not in the black and white that the real substance lies. Instead it's in the shades of grey or 'in the margins'. So in the margins here, as often, there was an untold story. A story which had grown uncontrolled in the letters and papers.

"The first joint meeting felt like a release of pressure, a chance to hear the back story in a human and informal setting. For me, it felt like humanity had been re-discovered, away from the black and white words which had defined relationships for so long. From this came the breakthrough words: 'I have gained quite an understanding of your position.' Again, I expressed the thought that this was so like the course, from reality-testing parties' respective positions, to discussing and drilling down into best alternatives to negotiated settlements. And the case studies during the course always had that 'human' dimension to them.

"I remember one of the simulations with a particularly angry party and being advised to 'Step into that anger and not away from it. Acknowledge it and give it its place.' I discovered that this is the value of mediation in real life too."

A professional party's story:

"Mediation was an eye-opener for me in that it exposed the friction which the adversarial pre-court correspondence and

subsequent court procedure can create in a dispute. If the benefits for each party in settling that dispute can be drawn out and used to build the foundation of a settlement, that would seem more likely to create an environment in which a settlement is likely to be achieved, in contrast with an exchange of correspondence which itself often has the effect, whether intended or not, of winding up the recipient. Over a long period, the cumulative effect of such correspondence will almost inevitably result in one or more of the parties being well wound up by the time the court hearing is reached.

"There is no doubt that written communication cannot convey the same nuances as the spoken word, and that face-to-face meetings offer the opportunity to assess the true position of the other party, and, perhaps as importantly, to explain to each other how and why they have arrived at their position in the dispute. In my case, it was very helpful for me to understand the additional factors explained by the other party which I had not until then appreciated had greatly contributed to the creation of the problem on their side. Until that point, I had been proceeding on the basis of the root of the problem being decades of defective work by their predecessors and advisers. For me, understanding the reality was a significant factor.

stories

"In particular, it allowed me to see that the other party was not the devil incarnate which had been formed in my mind's eye as a result of the terms of the prior correspondence through the solicitors. Rather, I could see in the other party someone who, like me, had been landed with a very thorny problem through factors which had not been reasonably foreseeable when the original agreement had been entered into many years previously. "I don't believe that a meeting simply involving solicitors rather than a mediator would have been likely to have had the same success."

Mediation Skills (f) or Facilitated Discussion?

Rachel Weiss

"Now I have a structure for running facilitated discussions"

"These mediation skills would be really useful in facilitated discussions"

I was running our "Mediation Skills for HR" training and had never heard of Facilitated Discussions before! What were they talking about?

The participants were all HR professionals, unlike me: I'm a Scottish Mediation Registered mediator, delivering workplace mediation as an external, independent provider.

So I asked what a facilitated discussion was, and it sounded just like an informal internal mediation, where HR sat down with the two disputing colleagues, to help them agree a way forward. Except it seemed that the HR folk didn't have any models to follow, so the facilitated discussions lacked structure and they lacked confidence. They were delighted with the workplace mediation model and skills, which I was teaching them.

It got me thinking. How closely do facilitated discussions match the six defining characteristics of mediation? viz.

- * Confidentiality
- * Voluntary
- * 'Solution/Agreement' focussed
- * Disputants offer the solution themselves
- * Mediator is impartial

Facilitated discussion, led by HR, can be all of these. But HR may not be confidential or impartial, and, even more tellingly, they may not be perceived as being confidential or impartial, even when they are.

Woolfson (2015) states "It's true to say that mediation is essentially a facilitated discussion... But when some people talk about facilitated discussions, what they mean is a discussion facilitated by a manager or HR, rather than an independent mediator". In other words, the key difference is whether the 3rd party is internal to the organisation or not.

3 rd party not trained	=> facilitated discussion
3 rd party trained and accredited	=> mediation

Saundry and Wibberley (2015), on the other hand, see the defining characteristic of mediation as the training of the 3rd party facilitating it.

They state "we would distinguish between ad hoc 'facilitated discussions' undertaken by a single manager or HR professional, and 'mediation' that is conducted by a trained and accredited mediator...Mediation of this type can be bought in by an external specialist or provided through an in-house service whereby operational staff are trained and act as mediators in addition to their normal role" (ibid p1).

Internal 3 rd party => facilitated discussion
External 3 rd party => mediation

I asked my local CIPD Mid Scotland branch for their thoughts on the difference between internal mediations and facilitated discussions. Some of them considered internal mediation as a particular type of facilitated discussion, with an expected result of conflict resolution.

ACAS (2017) offer a course entitled "Facilitated Discussion and Mediation Skills for managers", saying "Based on approaches used in mediation, the day will enable managers to be confident in facilitating dis-

Mediation Skills (f) or Facilitated Discussion?

Rachel Weiss

ussions between staff who are working in conflict to help them find and agree their own solutions.” This implies that mediation is a type of facilitated discussion, but leaves open the question of whether facilitated discussions and mediations are the same thing or different.

My current thoughts are summarised in Fig 1 and Table 1, viz. mediation is a specialised type of facilitated discussion. Both involve at least two colleagues and a 3rd party (the facilitator or mediator) who may also be an employee in the same organisation

	Facilitated Discussion	Workplace Mediation
Purpose	Wide-ranging eg to agree purpose or strategy for a team, to resolve conflict, to formulate an action plan, to decide whether and how to implement change etc.	To resolve conflict between colleagues and/ or to improve their working relationship
Participation	May not be voluntary	Is voluntary
Structure	Often loose and very informal, but can be more structured.	Structured process
Confidential	Sometimes	Always (within stated limits)
The 3rd party's training	May be trained in mediation or facilitation	Trained in mediation, preferably registered or accredited
The 3rd party	Impartial, may be external or internal, their role is to help participants create agreements.	

Table 1: Differences and similarities between facilitated discussion and mediation

However, there is no clear consensus, since one definition of a facilitated discussion states:

“Facilitated discussion is an informal facilitated conversation between employees, or an employee and the appropriate supervisor or manager, to discuss workplace problems involving a trained mediator/facilitator as a neutral third party assigned by the Human Resources Division to guide the conversation toward a reasonable conclusion.” [Texas Dept. of Transportation Glossary 2013]

This sounds exactly the same as mediation, provided that the solutions are generated by the participants.

In our “Mediation Skills for HR” 2-day course, we explore the differences between mediation and other forms of dispute resolutions, such as arbitration, negotiation and an employment tribunal. But that’s another story...

I welcome your thoughts on the distinction (or otherwise) between facilitated discussion and mediation either via Collaborate or directly to myself or in the Scottish Mediation LinkedIn group.

Mediation Skills (f) or Facilitated Discussion?

Cont'd

Rachel Weiss

If you are interested in workplace mediation, do join us at the Workplace and Employment Initiative Group (WEIG) at Scottish Mediation. Our next meeting is on June 9th, when we will learn about Team Mediation.

References

Acas (2017) Facilitated Discussion and Mediation Skills for Managers [online] <https://obs.acas.org.uk/ViewEvent.aspx?EventId=195103> [Accessed May 6th 2017]

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Rachel Weiss is a coach, counsellor and Scottish Registered Mediator specialising in workplace mediation. She is a partner at Rowan Consultancy.

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THE MEDIATION PARTNERSHIP

SMR Accredited Mediator Training



First Course in Scotland to be accredited by the
Scottish Mediation Register

Dates: Thurs 25th & Fri 26th May, Weds 7th, Thurs 8th & Fri 9th June 2017
(includes assessment)

This intensive four day course is suitable for mediators, lawyers, managers, HR personnel and anyone with an interest in gaining or enhancing mediation skills. It will provide delegates with a clear theoretical and practical training course, in line with the Scottish Mediation Network (SMN) *Guidance on Mediator Competency*.

"Best training event I have ever been to. Excellent guidance. Great fun." Delegate from the University of Aberdeen

"Previous training felt like learning the highway code and having a 'go' in a simulator, whereas with Linda and Aileen it was like getting to drive the car with two very able and encouraging instructors on board to make it a safe and enjoyable experience." Lili Hunter, Lili Hunter Consulting Ltd

To book a place, or find out more information, contact Aileen Riddell on 07950 395276 or e-mail enquiries@mediationpartnership.co.uk www.mediationpartnership.co.uk

Scottish Mediation News

Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome the Scottish Community Mediation Centre as members. The centre provide training and support to community mediators who perform vital roles in Scotland's local authorities.

Catherine Brys joins as a member and Anne Hall Dick and Natalie Barrett are now practitioners on the Scottish Mediation Register.

Committee for Excellence in Mediation

The Committee who oversee work on standards in mediation, our programme of CPD and events and our work on the Scottish Mediation Register are meeting on Thursday 1st June and if you have any items you would like them to consider please contact admin@scottishmediation.org.uk or give us a call (0131 556 1221).

Motivating Behaviour Change Masterclass

This event is scheduled for 21 June 2017 in Edinburgh and will consider the techniques successfully used by experts in the UK and US to change some of the most ingrained negative behaviour – addictions.

The class is being led by Jeremy Scuse who runs Catalyst Mediation.

For further details and to book a place please click [here](#).

Mediate 2017

Mediate 2017 will take place on Monday 6th November 2017 at Renfield St Stephens, on Bath Street in Glasgow.

The event will feature keynotes and workshops and an opportunity to network with others interested in mediation. Further details to follow.

Resolve conflicts at an early stage

Mediation Skills

Perth 25th and 26th September 2017 £470 + VAT

This experiential course is endorsed by the Institute of Leadership and Management (ILM) and taught by Rachel Weiss, an experienced workplace mediator on the Scottish Mediation Register.

"Great mediation skills training. Will take lots away to use within the workplace. Thanks, Rachel and Rowan Consultancy"
Noele McClelland, Partner, Thorntons LLP

www.rowan-consultancy.co.uk
rowan@rowan-consultancy.co.uk
01738 562 005





LLM/MSc Mediation and Conflict Resolution

Still the only course of its kind in the UK, Strathclyde Law School's postgraduate programme in Mediation and Conflict Resolution provides a thorough, practical and exciting introduction to this developing area. Distinctive features include:

- A focus on interpersonal mediation skills AND

- A thorough introduction to the academic dimension of the discipline

- The [Mediation Clinic](#), providing opportunities to work with experienced mediators on real cases

- Accreditation by Scottish Mediation (as fulfilling the training requirement for the Scottish Mediation Register)

- A truly international mix of students, this year including New Zealand, India, Ecuador, Seychelles, Canada, USA, Belgium, Ghana, Nigeria and Scotland

- Rigorous and multi-disciplinary, taught by UK and international experts

- Suitable for managers, lawyers, mediators, HR, health professionals and anyone working with people

Participants will enhance their confidence in dealing with interpersonal and organisational conflict while developing their communication and problem-solving skills. As well as core classes on mediation theory and practice, students may choose electives in negotiation, employment mediation, mediation law and policy, arbitration as well as classes from Human Rights, Construction Law and International Economic Law. Legal training is not a pre-requisite; the MSc/LLM option caters for students from a wide range of disciplines.

Start Date: September each year

Mode of Study: Full-Time or Part-Time

Taught by a combination of evening lectures and intensive weekend sessions to maximise flexibility.

Application and further information can be obtained from:

<http://www.strath.ac.uk/humanities/courses/law/courses/mediation/>

Contact: hass-pgt-enquiries@strath.ac.uk

Tel: 0141 444 8600

UNIVERSITY OF STRATHCLYDE
TIMES HIGHER EDUCATION AWARD WINNER
BUSINESS SCHOOL OF THE YEAR 2016
Entrepreneurial University of the Year 2013 • UK University of the Year 2012

Board Profile - Amanda Heenan

What is your day job?

I am an equality and organisational development consultant. My work is pretty varied, but in the main, I support organisations to really help them understand and improve the equality impact they are making. I love developing skills and confidence to deliver equality and inclusion effectively, and seeing the difference this makes.

What motivates you to get up on a Monday morning?

The fact that I can!

Also, being self-employed has the distinct advantage of taking the dread factor out of Mondays. I see each day as a new opportunity to experience life, and hopefully make a positive contribution.

How long have you been a Trustee, and why did you become involved?

I became a Trustee in September 2016. I have incorporated mediation and 'mediating ways' into all the roles I've had since training as a mediator nearly a decade ago. I have seen the power of mediation to resolve conflict and want to see this applied more widely in the workplace and in society. I applied for the role of Trustee as an opportunity to have a strategic influence and contribute to this wider use of mediation.



We are now living in a socio-political climate where conflict and fear seems to be ever more prevalent. The role of mediation, conflict resolution and peace building is more crucial now than it has ever been.

Did you have any prior knowledge of or involvement with Scottish Mediation before?

I joined Scottish Mediation in 2016, soon after moving up to Scotland from Yorkshire. I wanted to keep my mediation skills up to date and was keen to join a Scottish network supporting and promoting mediation.

What have been the highlights of your involvement with Scottish Mediation?

Seeing an increased focus on developing community skills and confidence in mediation, and engaging with the dedicated project officers in the team. The Board strategy day was also a great opportunity to share ideas and help shape the direction of travel for the organisation.

Board Profile - Amanda Heenan

What do you see as the main issues that Board has to address at present?

More effectively promoting mediation and breaking down barriers that prevent people from seeing mediation as an effective way to resolve conflict, especially at the early stages of conflict. Widening our membership is also a key area for development.

If you could change only one thing for mediators, what would it be?

That mediation is more widely seen as a first line of conflict resolution in the workplace and in communities.

What keeps you busy outside of work?

I enjoy painting and drawing, particularly capturing nature and light. I love travelling and exploring the beautiful Scottish countryside. On my travels, I record information and photos of accessible walks for other people who use wheels to get about and share this online.

Scottish Mediation News

New Member for Scottish Mediation Board

The Board are delighted that Katie Souter has joined the Board. Katie works for Sheperd and Wedderburn and has previous experience in mediation previously a competitor for the university of Strathclyde team.

Re-Framing CPD a Great Success

The recent Scottish Mediation CPD on re-framing in mediation attracted large attendances in Aberdeen, Edinburgh and Glasgow and was rated highly by those who took part.

Our next CPD sessions across Scotland will take place as follows,
 3 October - Glasgow (1-4pm)
 10 October - Edinburgh (1-4pm)
 12 October - Aberdeen (1-4pm)
 Topic to be confirmed.

Simple Procedure

The first Simple Procedure cases are beginning to be dealt with by the Scottish Courts. So far where voluntary mediation schemes already exist parties are accessing these in a similar way to before. In other areas where no such schemes exist there has been a mixed picture with some areas reporting no cases being referred to mediation and in some other parties have been 'ordered' to mediation.

Scottish Mediation are monitoring what is happening and would be interested in hearing about what's been happening across Scotland.

Work is continuing to promote proper re-sourcing for mediation across Scotland which has the potential to give better access to justice, to give parties a better range of options for their disputes and to save court and judicial resources.

Workplace Employment Initiative Group

May 2017

Dear Scottish Mediation colleague

Our next meeting will be on Friday 9th June at the Scottish Mediation office in Edinburgh. Our main meeting will start at 2pm with a CPD extra session starting at 12.45pm.

**Val Dougan, Cameron McKenna LLP:
Team conflict resolution: the Dundee model**

Val will lead a session covering Early Dispute Resolution's work with team at the University and the model they use to facilitate discussions.

The optional extra CPD session at 12.45: How do you prepare yourself as a mediator for the mediation? And how do you wind down after a mediation? - facilitated by Chris Cox

All meetings are open to Scottish Mediation members and provide an opportunity for mediators involved and/or interested in workplace mediation to come together to network and share experiences.

Please email admin@scottishmediation.org.uk if you are able to attend.

Looking forward to meeting up,

Slainte

Linn

Linn Phipps, Chair, SMN WEIG, 07917 564440