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Scottish Mediation's Big Idea

The SM Board has just had its three year planning session on its strategy and I am writing to share with you how we will be challenging ourselves with some big ideas for the next three years. We want to make 2020 the year that mediation comes of age in Scotland but we can only do that with your help – the help of everyone in the mediation community.

The context is there has been steady progress in the take-up of mediation in fields from community and family through employment and homelessness to courts and complaints. We have also seen steady progress providing people with access to mediation through the helpline, establishing the register of mediators as the place to find a qualified mediator and accrediting courses which train mediators to a recognised level of competency. Every field of mediation can show similar steady progress and be proud of how effective our craft is at delivering results for those who take it up. But there's the rub – those who take it up remain a small proportion of those who could benefit. Most of us will be feeling that we are nowhere near meeting the potential for mediation to be an agent of change in a societal culture which still reaches for adversarial and contentious debating styles when dealing with differences. At best we can say that, while we have brilliant examples of good practice and innovation, at a more general level progress has been incremental and under-whelming.

So the challenge for us all who believe that mediation can be both an alternative dispute resolver and a life skill is how do we go about spreading the word and making mediation and mediating ways a movement for change. We know that by using mediating skills and dialogue people have the potential to handle difference, diversity and disputes better and effect culture change wherever contentious de-



What's the Big Idea?

Robin Burley

bate has been the style of communication. But we cannot be a movement for change unless we find a way to pull together and pool our energy and expertise. To do that we need a big and compelling vision, one which fits with the ambitions of every branch of the mediation community and then we need plans so we can engage in this movement for change in ways that are relevant to the field within which we work. We hope that the ideas that follow will capture the imagination and harness the energy of everyone who cares about how to take mediation and mediating ways forward.



In time our big idea is that we will have succeeded in putting mediation and mediating ways at the heart of the Scottish way of life in education, business, government and civil society. It would be an unrealistic three year goal. But it could be achieved in ten with your help and the commitment of the whole mediation community. But let's not remain star-struck. What we need now is a focus for action; one we could kick-start now. The mediation community has the most amazing reach into almost every area of life from our schools to our homes to our businesses and our government. We can trigger culture change if we pull together and pool our breadth of interests and depth of reach behind a movement for change. Our three year plan is two-fold. First, with your help, we plan to make 2020 the Scottish Year of Mediation. Second, we plan to launch a Scottish Mediation Charter at the beginning of 2020 and engage organisations from the private, public and third sectors in making commitments to mediation and mediating ways. These ideas are not prescriptive blueprints set in stone. They are a call to action but in the form of a framework for development. They can be shaped by you and if they are they will be the stronger for it. Let me say a

little about these two.

Scottish Year of Mediation 2020: the idea of YoM2020 is that over the course of the year every branch of mediation will be engaged in some way in raising the mediation banner in the way that reflects the characteristics of their work. By creating a common theme for the year and supporting that with a co-ordinated campaign, branding and communications we can turn our individually limited resources and impact into a national movement to spread the word about mediation. We envisage a year of planning (2018), a year for preparation (2019), and a year for delivery (2020). During the year of planning we will be holding conversations with every organisation interested in mediation to find out if you can make a contribution and how you would shape it. At the beginning of the year of preparation we would be in a position to publish a Year Planner for YoM2020 and that would give plenty of time for programmes to develop for the individual activi-



ties and to do further development work on communications, so we maximise the impact of Mediate 2020.

Scottish Mediation Charter: A charter is normally a document which both commits and authorises an organisation in the way it works. In our proposal holding a mediation charter will be the way organisations can show their commitment to the values and practice of mediating ways in their work and dealings with other organisations. There have been mediation charters in other countries

What's the Big Idea

Robin Burley

such as USA, France and Singapore, which have been targeted on big business and contractual disputes. In the Scottish context we wish the Scottish Mediation Charter to become an inclusive badge of commitment for large and small bodies operating in the public, private and third sectors. In developing this we envisage a year of consultation (2018), a year of planning (2019), and a launch year (2020). During the consultation year we will be speaking with organisations alongside the ideas for YoM2020 to find out the extent and nature of this charter being relevant to your branch of or role in mediation and mediating ways. At this stage we envisage the charter to be developed under three key areas: a commitment to use mediation as the normal first-step to resolve disputes; a commitment to use mediation clauses in contracts entered into with others, and a commitment to mediation know-how development for staff.

The Year of Mediation and a Mediation Charter are not set in stone but are flexible goals

that can be shaped by you to the characteristics of your mediating activities. These goals are not prescriptive but provide a starting point on which we can build two complementary and successful campaigns. The first of these has a fixed timeframe of one year for delivery while the second has the potential of creating an ongoing campaign and movement for change taking us forward towards the ten year goal: putting mediation and mediating ways at the heart of Scottish life. With your ideas, your input and your support we can make 2020 the year mediation and mediating ways comes of age in Scotland. Over the coming year we will be talking with everyone and every organisation in Scotland's mediation community to find out from you the ideas and aspirations you can contribute. But if you have thoughts on how you can help now please don't wait until we contact you just let us know you are ready, willing and able and we will be along to find out more in an instant.



Queen Margaret University
CONSUMER DISPUTE RESOLUTION
CENTRE

Introduction to conflict resolution A FREE ONLINE COURSE

Queen Margaret University will be running a free online short course for those interested in an introduction to conflict resolution, and online learning, between 19 February 2018 and 16 March 2018. The course will look at the causes of conflict, how it escalates, and will begin to look at the broad number of ways in which it can be resolved. It will be carried out entirely online, with video lectures, discussion boards, set reading, and quizzes to give interested students an introduction to the topic. For more information and to sign up, see <https://goo.gl/GdXTqE>.

Queen Margaret University Consumer Dispute Resolution Centre also offers a number of short, online courses on dispute resolution topics, including Negotiation and Mediation, which has an optional practical face-to-face element based in Edinburgh and is accredited by the Scottish Mediation Network, as well as an MSc covering the wider realm of Dispute Resolution. More information about our courses and MSc can be found here <https://goo.gl/ZyRJhh>.

For more information about our research centre, and to see our CPD offering in the world of complaint-handling practice, take a look at our homepage here <https://goo.gl/H7jrCb>.

Should Scotland Have a mediation Act?

Paul Kirkwood

I had the pleasure of attending an address by the President of The Mediation Institute of Ireland, Sabine Walsh on 4 December 2017 at the Scottish Mediation Network headquarters in Edinburgh. The subject was the Republic of Ireland's passing into law on 2 October 2017 of its own Mediation Act 2017.

This was the culmination of more than 10 years effort by the MII, and came into force during its 25th anniversary! Sabine kindly directed us to some of the Act's headlines. These are as follows. For the purposes of the Act, 'mediation' means a confidential, facilitative and voluntary process in which parties to a dispute, with the assistance of a mediator, attempt to reach a mutually acceptable agreement to resolve the dispute; and a 'mediator' means a person appointed under an agreement to mediate to assist the parties to the agreement to reach a mutually acceptable agreement to resolve the dispute the subject of the agreement' (section 2 (1) (o)).

Exclusions

The Act doesn't define directly what it applies to, but rather provides what the Act will not apply to per section 3; including the following exclusions:

- 1) arbitration
- 2) a dispute under the Workplace Relations Commission/Workplace Relations Act 2015-this has its own mediation provisions already
- 3) tax appeals
- 4) proceedings in court relating to judicial review
- 5) proceedings in court relating to alleged infringements of the fundamental rights and freedoms of a person
- 6) proceedings relating to the Domestic Violence Acts 1996-2011
- 7) proceedings under the Childcare Acts 1991-2011

aside from these exclusions, mediation applies to basically everything that can be legally disputed. Mediation

Section 6 provides that mediation is voluntary (but see anon); the fact proceedings have already been issued doesn't debar (further) mediation; parties can withdraw from mediation at any time; parties may be accompanied into mediation and assisted there by a person (including a legal adviser) who is not a party and obtain legal advice any time during mediation.

Section 6 also provides that a mediator may withdraw from mediation at any time but must give notice in writing to parties stating their general reasons for withdrawal. It also provides that it is for parties to determine the outcome of the mediation (but see anon).

Agreement to Mediate

Section 7 provides that there will be one, signed

by all parties and the mediator which must specify amongst others:

- 1) how the mediation is to be conducted
- 2) costs/fees
- 3) that the mediation will be conducted in a confidential manner
- 4) that parties may seek legal advice
- 5) the manner in which the agreement may be



AN BILLE IDIRGHABHÁLA, 2017
MEDIATION BILL 2017

Bill
entitled

terminated

6) any other terms agreed between the parties and mediator.

Role of Mediator

Section 8 requires mediators to make enquiries as to whether they have an actual or potential conflict of interest, and not to act if they do. It also requires mediators to provide information about their training, qualifications and details confirming which Code of Practice they act under. It requires mediators to act impartially and to treat the parties fairly. This section provides scope for potentially significant difficulties-where one party is at a disadvantage, perhaps lacking legal support, it is possible that a mediator, in seeking to treat a party 'fairly' (this is not defined and neither is impartiality) may breach his obligation to act impartially.

Section 8 (3) provides that the outcome of mediation is to be determined by the parties and that a mediator won't make proposals to the parties to assist in resolving the dispute. However, section 8 (4) then provides that mediators may (at their discretion), if all parties so request, make proposals to parties to resolve the dispute-but that it will still be up to parties to decide whether to accept such mediator proposals.

The Act therefore provides a hybrid model of mediation (at the parties' and mediator's discretion).



LLM/MSc Mediation and Conflict Resolution

The ability to deal with conflict is a key skill in the modern workplace. The UK's leading postgraduate programme in Mediation and Conflict Resolution at Strathclyde law school provides a thorough, practical and exciting introduction to this developing area. Our alumni are working as freelance mediators and in law firms, public sector bodies, NGOs and mediation organisations.

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.
 - ***NEWS*** In 2017 the Mediation Clinic trebled the number of cases mediated, thanks to the new Sheriff Court Simple Procedure. This has created more opportunities for students to gain experience of real-world mediation.
- Accreditation by Scottish Mediation (as fulfilling the training requirement for the Scottish Mediation Register)
- Rigorous and multi-disciplinary, taught by UK and international experts
- A truly international mix. Last year's cohort included students from New Zealand, India, Ecuador, Seychelles, Canada, USA, Belgium, Ghana, Nigeria and the UK
- 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

e: hass-pgt-enquiries@strath.ac.uk
 t: 0141 444 8600

NEW FOR 2018-19

From September 2018 parts of the course will be delivered online, making participation easier for those not living or working in the West of Scotland. Please contact [Charlie Irvine](#), Course Leader, for more details.

The University of Strathclyde is a charitable body, registered in Scotland, number SC015263

Should Scotland Have a mediation Act?

Paul Kirkwood

The primary model of mediation provided is Facilitative Mediation-but if both parties ask, and if the mediator wishes to, the mediator may provide non-binding proposals (without breaching his impartiality or fairness obligations) based upon his own assessment of the dispute- a type of Evaluative or Strategic (Directive) Mediation. This approach is not entirely dissimilar to that in the Employment Relations Act of New Zealand where mediators, at their discretion, may provide proposals and practice either Facilitative or Evaluative Mediation. The Mediation Act nevertheless seeks to protect mediation's fundamental principle-parties' right to self-determination-by leaving it open to parties to accept or reject the mediator's proposals.

Code of Practice

Section 9 provides that the Minister may prepare and publish such a code- there isn't one yet-but it is envisaged that one will be forthcoming.

Confidentiality

Section 10 (1) provides (subject to section 10 (2) and section 17 anon) that all communications (including oral statements), and all records and notes (handwritten, typed or dictated) relating to the mediation shall be confidential and shall not be disclosed in any proceedings before a court or otherwise.

But section 10 (2) provides that section 10 (1) will not apply to such communications where disclosure:

- 1) is necessary in order to implement or enforce a mediation agreement
 - 2) is necessary to prevent physical or psychological injury to a party (for example the mediator discovers that behaviour (e.g. bullying) by one party, say a manager/spouse to another, say an employee/ spouse was likely to cause either physical or psychological injury)
 - 3) is required by law
 - 4) is necessary to prevent or reveal
 - a) commission of a crime
 - b) concealment of a crime
 - c) a threat to party
 - or
 - 5) is sought to prove/disprove a claim of professional negligence against the mediator.
- And Section 10 (3) provides that evidence introduced or used in a mediation that is otherwise admissible or subject to discovery in legal proceedings shall not be or become inadmissible or protected by privilege in those proceedings just because it was introduced on used in the mediation!

There are therefore many reasonable instances where confidentiality will not apply. It is also the case that the Act does not provide mediator privilege- it is not open to the mediator to refuse to

give evidence.

Enforceability of Mediation Settlements

Sections 11 (a) and (b) provides parties decide if/when a settlement has been reached between them and whether such a settlement is to be enforceable. But section 11 (2) provides an agreement between parties will have the effect of a binding legal contract, unless parties state in that settlement that it is to have no legal force until incorporated into a formal legal agreement/ contract signed by the parties.

However, the court on the application of one or



The Mediators' Institute of Ireland

more party, may refuse to enforce mediation contract

if, per section 11 (3) (a) the mediation settlement-

- 1) doesn't adequately protect the rights/ entitlements of parties/their dependents
 - 2) was not based on full/mutual disclosure of assets, or
 - 3) is contrary to public policy
- or
- (b) one party has been overborne or unduly influenced by any other party in reaching the mediation settlement

Solicitors and Mediation

In terms of section 14 (1) a practising solicitor, before raising a case in court on behalf of a client must

- a) advise the client to consider mediation as a means of dispute resolution
- b) give the client information about mediation, including the details of people who provide mediation
- c) provides the client with information about: the advantages of resolving the dispute otherwise than by going to court, and the benefits of mediation.
- d) advise mediation is voluntary
- e) tell the client about the enforceability of mediation agreement provisions and about mediation confidentiality.

Section 14 (2) provides that the solicitor raising proceedings in court must sign a Statutory Declaration and lodge it at the same time. The Statutory Declaration must evidence that the solicitor has performed the statutory obligations upon him.

Should Scotland Have a mediation Act?

Paul Kirkwood

The Court and Mediation

Even where proceedings have been raised in court and the solicitor has provided a Statutory Declaration per section 16 (1), the court on its own discretion may invite parties to consider mediation as a means of dispute resolution.

In terms of section 17, following an invitation by the court, where parties engage in mediation and subsequently seek to re-enter the court process, the mediator must prepare and submit a report to the court setting out:

- 1) if mediation didn't take place, why it didn't
 - 2) where it did take place, a statement as to whether agreement was reached not;
 - 3) where agreement was reached in whole or part, a statement of the terms of the agreement.
- Sabine indicated that solicitors in the Republic of Ireland were largely proceeding- in conjunction with their clients- on the basis that whilst strictly mediation wasn't mandatory, in reality it was, and were therefore seeking to embrace mediation as part of the dispute resolution process.

Factors to be considered by Court in awarding costs

Per section 21, the court, with regard to court action raised under section 16, where the court subsequently invited parties to consider mediation, can have regard to:

- a) an unreasonable refusal/failure by party to consider using mediation
- b) an unreasonable refusal/failure by party to attend mediation.

It seems odd to me to put the onus on a solicitor to explain the benefits of mediation as a form of dispute resolution to a client, as in my own experience most solicitors don't know much about it or its benefits, such as much faster resolution, with less risk and stress.

The implication of section 21 however seems to be that the court will encourage parties to mediate and where they fail to do so, parties will run the risk of an adverse award of costs.

It is the case that one of the guiding principles of mediation-it is voluntary-has been hedged about in terms of the Act. However, if parties do engage in mediation and are unable to reach agreement, then it seems unlikely they would subsequently attract such an adverse award of costs.

What we know from practice in England, for example in Special Education Needs cases, is that where people access mediation information sessions, as they must as a prerequisite for subsequently going to tribunal (they need a certificate from a mediator saying that they have), the majority then opt for the full mediation, and the majority of those then settle without further tribunal action. This obviates the need for expensive (for the State, individuals and companies) court pro-

cedure and hearings, providing much faster, less financially risky, resolution of disputes, with much more effective access to justice, as mediation maintains the link between clients and their solicitors.

Should we have a Mediation Act in Scotland?

As a mediator and solicitor, I have to declare an interest. My view is that we should. Mediation maximises in particular individual's self-determination and control in a way that their peripheral engagement in litigation does not. They have direct input and call the shots; but they still benefit from having good legal advice from their solicitors who are present. It also makes it much faster, less financially risky, and far less stressful resolution.

I can't do better in expounding mediation's virtues than by quoting Sabine Walsh-

'Mediation is a fantastic method of resolving disputes. Mediation is fast, cost-effective, confidential and involves direct input from the parties themselves. In my experience mediation is an incredibly effective tool for resolving even the most bitter disputes'.



Place for Hope Training Programmes

Our churches and faith communities face change, encounter difference and can struggle to manage conflict. We know conflict can be both creative and destructive.

Place for Hope offers one-day workshops to support church and faith community leaders in responding to conflict.

Courses in our 2018 season include:

Scripture, Spirituality and Conflict
8/3/18 Perth Subud Centre
Bullying and Harassment
22/3/18 Perth Subud Centre

and more dates coming soon....

We also offer a range of support services for groups and individuals experiencing or preparing for change, challenge and conflict.

For more information about training and support
w: www.placeforhope.org.uk
e: info@placeforhope.org.uk
t: 07884 580 359

Reconciling Relationships

Ruth Harvey

On Tuesday 3rd October 2017 forty-seven of us met in the airy space of the Mews in central Edinburgh to share reflections, visions and hopes for 'Reconciling Relationships'.

In a world of increasingly fragmented relationships in the political, civic and faith spheres, there is a realisation that the way of reconciliation, the path of transformation is one that can increasingly inform and affect the culture in which we live. The many networks, agencies and individuals working in the area of conflict transformation is growing: we have a rich resource of peacebuilders in Scotland, including agencies such as Place for Hope which offer resources for peace-building and conflict transformation from a faith perspective.

One impetus for this seminar came from the realisation that Place for Hope reaches its tenth anniversary in 2019. With talk, initially, of a 2019 conference to mirror the founding conference of Place for Hope at Aviemore in 2009, the agenda for our seminar began to grow.

We were delighted with the interest in the seminar not only from the core constituency of Place for Hope, namely faith-based organisations seeking support in the art of conflict transformation. But also from secular agencies and friends of Place for Hope, and more widely the interfaith community in Scotland.

The Purpose of our Seminar was to:
network between mediation, peace-building and faith-based conflict transformation groups;
deepen our understanding of reconciliation;
draw together wisdom for programme towards a peace-building conference in 2019

After a welcome to the day, we met with one another around round table, and spent some time meeting with one another sharing responses to the prompts: "share a hope that you have for the day"; and "share one thing about which you are passionate."

We were then joined by David Brubaker



from his office in Virginia. David directs the MBA Program and serves as Associate Professor of Organizational Studies in the Center for Justice and Peacebuilding at the Eastern Mennonite University who led us through some reflections on 'Reconciling Relationships: Perspectives on Change and Conflict in our Congregations and our Societies.' Exploring the notion of congregations as 'systems', we looked at the nature of a healthy system, and in particular focused on healthy leadership. The societal forces which impact on the life of congregations particularly in the US include:

- Decline of Christendom and "rise of the nones"
- Loss of trust in institutions
- Growing cultural and religious diversity (and rise of Trump)
- Increase in polarization
- Changing family structure
- Cellphone (mobile) saturation
- Accelerating individualism

Reconciling Relationships

Ruth Harvey

We took time around our tables to share responses to a number of questions about change and conflict in our local congregation or community setting. Responses, along with David's further reflections are captured in the video which can be viewed here.

After lunch we moved in to a time of conversation with four panel members, Maureen Sier, Director of Interfaith Scotland; Graham Boyack, Director of the Scottish Mediation Network, Stewart Weaver, Church of Scotland Minister and Place for Hope Trustee, and Ruth Harvey, Director of Place for Hope.

Themes that emerged included:
conflict transformation in interfaith and international contexts
ensuring that 'the voice' in the room is the voice of authentic experience

the power of listening, and the need to take necessary time for change and transition
the art of 'slow conversation'
following the Easter story as a guide for the transformation of conflict

Our hope is that, through this seminar, energy and vision can be galvanised across the churches, the faith networks, secular and civic mediation partners and others, to ensure that reconciliation and the transformation of conflict become a way of life, and change our culture for the better. We are now working towards a Conference in the autumn of 2019, and other seminars/summer schools in advance. For more details, please sign up to our Peacemakers Network at www.placeforhope.org.uk or contact Ruth Harvey (ruth.harvey@placeforhope.org.uk) for more information.

Core's Flagship Mediation Training Course: Using Mediation Skills as a Professional

"I have found the course to be a positive and inspiring experience, which has challenged my professional practice and caused me to consider what is important. It should be compulsory!"

"By far the best course I have ever attended. I wish I had done it years ago. John and his colleagues are excellent and passionate teachers. Two and a half years on, I still frequently return to the course materials and my notes."

Special discount for Collaborate readers who register by **19 February**. Contact us for more information

core

Spring School: Using Mediation Skills as a Professional*

26-28 March 2018 (CPD: 24hrs +)

Module 2: Building Mediator Competence

26-27 April 2018 (CPD: 16hrs +)

Module 3: Assessment

17 - 18 May 2018 (CPD: 20hrs)

* The Spring School is available as a free-standing three-day course. It is also a prerequisite, as Module 1, for attending modules 2 & 3.

For details of Core's mediation, facilitation and training services, contact Miriam Kennedy at 0131 524 8188 or Miriam.Kennedy@core-solutions.com | www.core-solutions.com

Scottish Mediation News

Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome Fiona McMahon, David Sheldon and Euan McSherry as new individual members and Judith Higson who joins as a practitioner member.

Whether you are an organisation, a practitioner of mediation or someone interested in finding out more we have a range of memberships available which can be viewed [here](#).

Writing for Collaborate

Collaborate welcomes articles from all those interested in mediation in Scotland.

If you would like to submit an article for the next issue then please email admin@scottishmediation.org.uk

Workplace Mediation Course

This practical two day course (13 hours of CPD) introduces mediators experienced in other fields to the problem of workplace disagreement and conflict. Participants will learn about the causes of conflicts to watch for, how to adapt their mediation styles, the use of written communication and other techniques over two enjoyable, interactive days with opportunities to practice their newfound skills.

The course will run on 14/15th March 2018 and be presented by Carol Hope and Jeremy Scuse. If you are interested in attending please click [here](#).

Five Day Mediation Skills Course

1, 2, 8, 9 + 16 March 2018.

Glasgow

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.

Key features of the course

- Applies the theory of restorative practice to real life scenarios
- Helps you to develop your ability to autonomously manage the restorative meeting
- Explores the legal context in which restorative practices takes place

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



Scottish Mediation News

Scottish Parliament Discusses Mediation

On 6th February the Scottish Parliament Justice Committee held a round table discussion on the availability of Alternative Dispute Resolution.

Scottish Mediation, Core Solutions and the Edinburgh Sheriff Court Mediation Service were all represented along with Arbitration and Advocates and Lawyers.

The round table format itself highlighted a great example of how a non-binary format could allow a better exploration of issues and themes so it transpired.

Some of the key issues raised included, the patchwork nature of provision of mediation for simple procedure cases across Scotland, the success of mediation in family cases and in assisted special needs cases where it is supported by legislation.



The Scottish Parliament
Pàrlamaid na h-Alba

The MSP's on the committee raised some important questions including to ask how people are advised on the best way to deal with their disputes, whether there is anything to learn from other jurisdictions, if automatic referral to conciliation as happens in employment tribunals would be a good model and whether access to justice is the same as access to the court.

The committee have subsequently agreed to hold further evidence sessions which is welcomed by Scottish Mediation.

There were a great range of documents about the availability of ADR in Scotland

submitted to the committee you can view them [here](#).

Learning from Complaints

Where complaints are made about mediators on the Scottish Mediation Register once they have been heard by the mediators complaints process, Scottish Mediation provides a second tier process via the Committee for Excellence in Mediation.

The purpose of the process is to ensure that the standard of mediation available from the Register is at an appropriate level and that learning is available from complaints.

In a case considered last year a complainant had raised issues regarding the use of shuttle mediation by a mediator. The committee formed a panel to hear the complaint and the result was that the committee felt that the process used could have been improved and as a result asked the mediator to undertake some supervision of practice in this regard, which was subsequently undertaken.

The Committee has also recognised that this area may be a useful one to touch on in CPD for mediators and sessions are now being planned.

Simple Procedure

Scottish Mediation held a seminar on Simple Procedure to coincide with it having been operating for a year in the Scottish Courts. The seminar was attended by a wide range of people involved in the justice system and a policy paper as a result is planned.

Excellent practice was deidentified in a number of courts as was a need to ensure that access to mediation was improved across the whole of Scotland

Board Profile - Anne Inglis

What is your day job?

I manage the "in house" mediation service for South Lanarkshire council. I am also a practicing Mediator. The main focus of the work that we do is around Community related disputes involving Neighbours and relationship breakdown between Young People and their families. I am also a Member of the Scottish Community Mediation Network and I am part of a group of Assessors who support and develop their Mediator and Service Accreditation program.

What motivates you to get up on a Monday morning?

Although I have been working as a Mediator for 17 years, I still enjoy the challenges and surprises each new day brings. There is still a lot of work to do to make the use of Mediation and Mediation Skills the natural choice for dealing with conflict within our society and I feel that I'm doing my small part in influencing how this will progress in Scotland.

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

Very recently!! I was approached to join the Board in November last year and now have one Board Meeting under my belt. The reason I became involved was to make use of my experience within Community Mediation to contribute to building on Scottish Mediations growing influence in promoting Mediation and its use within Scotland and beyond.

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

Yes. Scottish Mediation and Scottish Community Mediation Network have had close links for many years and I'm confident this will continue. As a Mediation Service, my staff and I have also benefited from taking part in numerous Training events and Conferences SM have hosted.



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

The training and Conferences have been invaluable to me personally as a Mediator as opportunities to develop and learn new skills are very limited in our line of work. Collaborate, is also a great resource. I'm also really looking forward to being involved in the Board.

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

To ensure that Scottish Mediation is viewed as the organisation that links all types of Mediation provision in Scotland and to be "the guiding light" of its use within our society. To do this we need to increase our Membership and strengthen our links with those who provide services and those who are supportive of our vision. We also need to promote ourselves and what we can offer and push to ensure that using Mediation and Mediation skills becomes a normal part of how we live and work.

Board Profile - Anne Inglis

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

That our profession gets the respect and recognition that it deserves. Mediators still have to work so hard to promote themselves and although they do a lot of really great work I still don't think that there is enough knowledge or understanding of what we do.

What keeps you busy outside of work?

I love spending time with my family, pottering in my garden, watching films and listening to music and going out for a wee Cocktail or two once in a while!!

Save the date:
Mediate 2018
Monday 5 November 2018
Edinburgh



THE MEDIATION PARTNERSHIP SMR Accredited Mediator Training



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

Dates: Weds 21st, Thurs 22nd Feb, Tues 6th, Weds 7th & Thurs 8th March 2018
(includes assessment)

This intensive five-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 (SM) *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

Discounts available for self-funders and public/voluntary sector.

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

Workplace Employment Initiative Group

February 2018

Dear Scottish Mediation colleague

Our next meeting will be on Wednesday 21st March at the Scottish Mediation Office, 18 York Place, Edinburgh, EH1 3EP. Our main meeting will start at 2pm with a CPD extra session starting at 12.45pm.

Hew Dundas

Arbitration and hybrid mediation-arbitration approaches.

Hew will examine both arbitration and hybrids that are based on a mixture of mediation and arbitration. He will look at how the processes work, their suitability for dispute resolution and where they differ from the usual workplace mediation models.

The optional extra CPD session at 12.45: to be confirmed but likely to focus on a recent mediation case with an opportunity to learn from how it went, how it could have been improved and the lessons to be learned.

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