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Mediation, Collaboration and making a Difference

When I first studied mediation what struck me was that whilst the skills I was learning would help people find solutions to their disputes, that they also had a much wider application. In the six years I have now been working for Scottish Mediation the examples of the positive use of the wider skills continues to grow, and in places that I had never imagined.

I was recently at a meeting of Community Mediators in Glasgow and we heard an excellent presentation from the mediators at North Lanarkshire Council. As is the case for many community mediators working for local authorities, their work goes beyond neighbourhood disputes and there are great examples across Scotland of successful collaborative working involving mediators.

In North Lanarkshire the work that was presented came about initially through some creative problem solving. One of the key performance indicators used for social housing is the number of voids, properties not occupied. A high void rate was identified with young people living in shared housing. Tenants were not able to maintain their tenancies and were becoming the subject of antisocial behavior orders and ultimately eviction.

This led a social work colleague to get in touch with a mediator to see if they might work together to help the young people concerned. Their focus was on how to

maintain their tenancies and as a result both reduce voids and the chances of homelessness. The resulting approach was both innovative and has so far been successful. It centers on giving young people the necessary life skills to support them living in shared accommodation both in terms of relationships within the accommodation and critically with neighbours too.

The crux of the approach was that instead of telling the young people the rules for living in shared accommodation, they were asked to create their own rules and standards of behaviour. In doing so the approach encouraged the prospective tenants to look at issues such as stereotypes about them and others living nearby. Walking in other people's shoes was a good way of getting people to think about how their behaviours might be perceived and how talking about issues could really help. Advice was given on how to communicate, how not to and the conse-

quences when communications don't work well.

One of the key challenges in carrying out this work was the approach and how to make sure the prospective tenants would engage at all. A universal approach was



taken using schools and building in a session for all new prospective tenants. The programme has made efforts to specifically include people with behavioural issues that might lead to difficulties.

Are you an experienced mediator or facilitator looking to diversify your skills?

Do you want to take a business unusual approach to mediation?



If so, join us on our newly accredited training course in March 2019:

Civic Mediation Theory and Practice
A methodology for systemic conflict resolution

When? Module 1: Monday 4th March – Thursday 7th March 2019.

Module 2: Monday 18th March - Tuesday 19th March 2019.

Where? The Bay Hotel, Burntisland Road, Kinghorn, Fife, KY3 9YE.

Click on the link for further information: <http://centreforgoodrelations.com/courses.php>

To **register** your interest or to have a chat about the course please contact **Abdul Rahim** at **Centre for Good Relations** by email: abdul@centreforgoodrelations.com or
 Tel: **07960 683328**.

In designing the programme previous experience from social work indicated that a lot of the work should be visual with short sessions to maintain as high a level of engagement as possible.

Initial results from the work being piloted have been very encouraging and have seen a drop off in void rates for young people's tenancies. Voids cost council's money as does a high turnover of tenancies, so savings will be made from what has not been a huge investment. That in itself is a great result and I think the benefits are likely to be even greater in the long run. The first is likely to be a reduction in young homelessness as with more sustainable tenancies the likelihood of people becoming homeless will reduce. The cost of supporting home-



lessness can be significant. However, for me it's not all about money. By helping people to relate better to each other and their neighbours there is an opportunity to create communities that see less conflict and helps to create better environments for everyone to live in. Those relational skills are also likely to feed into work, families and friendships with positive long-term consequences.

The experience of North Lanarkshire should be an encouragement for all of us to identify and then embrace opportunities to use mediation skills in collaboration with others. The scope for delivering benefits will be wider than you might first imagine.



THE MEDIATION PARTNERSHIP SMR Accredited Mediator Training



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

**Dates: Thurs 13th, Fri 14th, Weds 26th, Thurs 27th & Fri 28th
June 2019 (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

Civil Justice Mediation Project

Rob Barrett

Background

The majority of disputes that arise between parties are resolved in private. When parties cannot resolve a dispute, they will seek to involve third parties. At present, the norm in Scotland is to turn to the civil court system for resolution of such cases. Though litigation represents an essential method by which parties can resolve disputes, it can be costly, time-consuming, and stressful for those involved.



In re-

cent years, there has been a growing awareness of the potential benefits of using alternative methods to resolve disputes, where appropriate. A recent report from the Justice Committee of the Scottish Parliament noted that alternative methods, such as mediation, can offer a quicker, less expensive, and less stressful option to parties.

Despite these clear benefits, the awareness and provision of mediation in Scotland remains relatively poor. In response, Scottish Mediation, with support from the Scottish Government, is undertaking a research project which aims to develop a range of policy options that will increase and encourage the use of mediation in resolving civil disputes.

An expert group has been formed to oversee this project to ensure that it achieves its aims. The Expert Group will: provide strategic leadership in the development and direction of the project, provide advice and assistance in the implementation and promotion of the project, monitor identified and emerging risks to the project and advise on their prevention, mitigation and management.

Overview of Project

The aim of the project is to produce a range of proposals that consider changes in legislation, legal aid, court rules, training & CPD, a dedicated judicial resource, etc.

Scottish Mediation is to produce an audit of mediation in Scotland, while the Justice Analytics Service carries out a literature review of mediation use across several common law jurisdictions: New South Wales and Queensland in Australia; Ontario, British Columbia, and Alberta in Canada; and Florida, Ohio, and Maryland in the United States. The initial deadline for this stage is the end of January.

Once this stage is complete, Scottish Me-



diation will draw up papers for the two-day meeting of the Expert Group, scheduled for the end of February. At the end of this meeting the draft report's structure and the list of proposals will be agreed, which will allow a final draft report to be produced for the third and final meeting of the Expert group in mid-April.

Commentary

This is an exciting development of mediation in Scotland and represents an opportunity for a step change in the use of mediation in the civil justice system.

Mediation a Damp Squib or a New Enlightenment?

John Sturrock

At Scottish Mediation's Annual General Meeting in October John Sturrock delivered a thought provoking and comprehensive analysis of mediation in Scotland. Below is an extract of the speech and a link to the full text.

In May, we had a really excellent international conference here in Edinburgh with the title "Mediation: A New Enlightenment?" The question mark was deliberate. I am in no doubt personally that, if we employed mediation and mediating ideas comprehensively, we would see a transformation in how we, as a species, conduct our affairs globally - and certainly in how we address disputes. Indeed, I would go as far as to say that our future as a species may depend on such a transformation. What a possibility. What a challenge. The same proposition, by extension, applies to how we do things here in Scotland.

But...there is a big "But".

The Justice Committee

Mediation has not taken root in Scotland as so many of us think it should and hoped it would. I look back over the last fifteen-twenty years here in Scotland and feel a real sense of frustration about what I perceive to be the relative lack of progress. The recent report of the Scottish Parliament Justice Committee, entitled "I won't see you in Court", is a notable contribution to the field and the Committee should be congratulated for taking this initiative. But the proposals simply largely mirror and repeat those made over the years, many of them nearly 20 years ago. Here I quote from the report:

While progress has been made to encourage greater use of ADR, availability and uptake across Scotland remains patchy. This report therefore suggests a number of changes which could address existing barriers to using ADR, including:

- a co-ordinated programme to raise public awareness of the benefits and availability of different ADR methods in Scotland, and ensuring that bodies such as citizens advice bureaux, local councils and GP surgeries, as well as elected representatives, have the resources to advise people on ADR
- a more robust duty on solicitors to advise their clients on the range of



dispute resolution methods available to them, for example a requirement to keep records of this advice which can then be audited by the Law Society

- legal aid for other forms of ADR, as is currently available for mediation
- reviewed training for the judiciary to encourage a more consistent approach to court referrals to ADR
- consistent provision and funding of in-court ADR services, particularly for simple procedure cases

While these changes could result in more people using ADR, the Committee



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.

considers that more fundamental options should also be explored. In particular, mandatory information meetings on ADR prior to court action should be piloted, save in domestic abuse cases. Consideration should also be given to introducing legislation similar to the Irish Mediation Act or incorporating ADR in specific legislation as was done, for example, in relation to additional support needs. These options could help to encourage the cultural shift the Committee heard is necessary to ensure a step-change in the uptake of ADR in Scotland.

I take these words as my starting point. It is not the Committee's fault, as it can only consider what it is asked to consider, but there is really nothing new here and I feel we should be well ahead of many of these ideas now. A "cultural shift" and "step-change" has been in the wind for years. They have not occurred. Progress in this jurisdiction is and has been slow,

painfully slow. (Saying this, I would wish to acknowledge all the excellent work that has been done by individuals and groups in significant pockets throughout Scotland where many aspects of mediation are now well received and well recognised. Humbly, I include our own work at Core in that).

Why do I say progress is slow? I recently threw out forty-five bags of papers from my office. In going through the many files, I came across my papers from the start of Scottish Mediation and from many other initiatives. My overwhelming impression is this: "Oh dear...whatever happened to..."

If you'd like to read more of this article please click [here](#).

Five-Day Mediation Skills Course 7, 8, 14, 15 & 21 March 2019



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 .

Scottish Mediation News

Mediate 2018 Review

This year's Mediate conference was one of the most anticipated and according to the feedback didn't disappoint.

The highlight of the conference was the Jo Berry and Patrick Magee plenary where they shared their experience of the importance of empathy in peace building, opening our eyes to the possibilities that dialogue can have in moving forward in situations of deep conflict. Delegates listened deeply to Jo and Partick's conversation and the questions asked were both thoughtful and highly respectful.

The day had begun with an enlightening session on how mediation has played a central role in helping to resolve disputes for Traveller communities in Ireland. It's use in situations where criminal proceedings could be involved was very innovative and showed a great degree of flexibility from those involved. The work in prisons where Peer mediation is used was seen to have very positive benefits which should be explored in Scotland.

As well as the plenaries, there were some enlightening workshops with excellent discussions.

A Place for Hope



Accreditation

Graham Boyack, Scottish Mediation Director was delighted to present A Place for Hope Chair Jan Adamson with a certificate accrediting their course, Faith and Change and Conflict, with Scottish Mediation Register Accredited status.



Save the date: Leading Oregon mediator and writer, Tim Hicks, to present seminar in June

Tim Hicks, leading Oregon mediator and author of the excellent book ***Introduction to Embodied Conflict: the neural roots of conflict and communication***, will be presenting a special seminar in **Edinburgh**, hosted by **Core**, on **Monday 10 June**. Not to be missed. Mark your calendar now. Details to follow.

Please write to Miriam Kennedy by email at Miriam.Kennedy@core-solutions.com to express interest and she will provide more information when available.

Scottish Mediation News

Scottish Mediation AGM

An excellent turnout of members at our October Annual General Meeting received a report in the year's activities scrutinized the annual accounts and elected new members to the Board of Trustees.

In the Board elections Alun Thomas was approved as Chair of the Board for the next three years. Alun has been a member of the Board and recently has been Vice Chair of the Board convening the Committee for the promotion of Mediation. Alun is a lawyer working at Anderson Strathern as head of the employment unit.

Linn Phipps was re-elected to the Board whilst Craig Cathcart, Fiona Cameron, Eilish Garland, Mike Park, Alastair Fraser, and Rosanne Cubitt were all elected to the Board.



The meeting also agreed to a resolution to formally change our name to Scottish Mediation. We have been trading as Scottish Mediation for two years and the change has now been approved by Companies House and the Office of the Scottish Charity regulator (OSCR).

Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome Fiona Burroughs, Alastair Fraser, Michael Park, Richard Spencer, Roz Adams, Claire Kettlewell, Louise Lang,

Claire Macauley, Mathis Heydtmann, Sharon Hilton Chrsitie, Stephanie McTighe and Andrew Watson as new individual members.

Adrian Dunn and Michael Stuart join as new Practitioners.

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](#).

Training and CPD –Save the Dates

Scottish Mediation are delighted to present our spring **CPD Mental Health and Mediation**. Led by Alison Ebbitt the CPD will focus on understanding the different ways people who are affected by mental health feel. It will look at good practice for mediators in mediating where people with mental health issues are involved and appropriate techniques to consider in such instances.

The first session will take place in Edinburgh on 9th May 2019 from 10am-1pm at the SM offices. A Glasgow date is in the process of being organised.

In April we are running a one day session called **Peer Mediation Train the Trainer**. The training is aimed at Teachers and support staff interested in developing Peer Mediation in their school. The session will take place on Wednesday March 27th and is the SM offices in Edinburgh.

For the above courses booking will be available soon, if you'd like more details, please email admin@scottishmediation.org.uk.

Board Profile - Rosanne Cubitt

What is your day job?

I am Head of Practice for Family Mediation at Relationships Scotland and National Development Manager for our new Parenting Apart service.

What motivates you to get up on a Monday morning?

I enjoy my job (mostly)! And I generally work from home on a Monday which is a good start to the week for me.

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

I have been a Trustee for a week! I was a Trustee previously, from 2006 to 2009, and I am keen to support the development of mediation across all sectors in Scotland.

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

I have worked closely with Scottish Mediation over many years. I have participated in the conferences in the past, and we work in the same building.

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

Working with like minded colleagues, and helping to get the message out about mediation, collaboration, co-operation. The conferences have been a good opportunity to make connections with other people and to get my head above the parapet to see what is happening in the wider world.



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

The main aims of raising awareness and promoting excellence are challenging with a small staff team. I think mediation is gaining acceptance but progress is slow and the big question is how to bring about a step change in the culture of using mediation in Scotland.

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

That people would know what mediation is without having to explain it every time!

What keeps you busy outside of work?

I enjoy tennis – playing and watching live and on TV, hiking and frequenting coffee shops.

Workplace Employment Initiative Group

January 2019

Dear Scottish Mediation colleague

Our next two meetings are in the process of being arranged and dates, venues and speakers will be announced soon.

The likely topics are:

Trades unions and Mediation

This meeting will focus on a mixture of review of the academic research in this area with practical input from Trades Unions and reps at a local level.

Insurers and Mediation

This meeting will look at the potential for employer policies to cover, not just the costs of an employment tribunal, but potentially mediation as a step to prevent the ET from happening in the first place.

As part of the meeting the opinion of insurers regarding such a proposal will be sought too.

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