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## Mediate 2019

This year's conference theme is 'The Words We Use'. The conference will look at the how language impacts on people engagement with mediation, how the language we use in mediation impacts on those involved and allow discussion on the response mediators might make to this.

We are delighted to confirm our two plenary sessions:

### What can mediators learn from crisis negotiators? - Elizabeth Stokoe

In this session, Elizabeth Stokoe will discuss their collaboration via Metropolitan Police, and Police Scotland. For several years, Liz has worked building evidence-based communication training for negotiators, based on recordings of live, unfolding crisis conversations between suicidal persons and police negotiators. Using conversation analysis, Liz identified effective strategies for overcoming resistance to engage in negotiation, and that some of these strategies echoed her findings looking at client resistance to mediation. Liz will share their collaboration story, as well as what works in high stakes conflict situations, for third parties whose aim is to help those in conflict.

Liz's sessions are always insightful and engaging. Last year she published a book called 'Talk—The Art of Conversation'. The insights from the book not only apply to mediation but also to you will also uncover fresh insights about how to have better conversations.

## **Behind the Veil of Words: Observations about the obscuration of action in the mediation process**

### **Dr Debbie De Girolamo**

Debbie De Girolamo is a senior lecturer in law at Queen Mary University of London where she teaches and researches on conflict and dispute resolution at the School of Law, Centre for Commercial Law Studies, in London and Paris. Debbie has designed and teaches the following LLM post-graduate courses: Alternative Dispute Resolution: Theory and Context; Alternative Dispute Resolution: Selected Issues; Negotiation Theory and Practice; Art Disputes and Their Resolution; and Lawyer Negotiators (Paris). Debbie is Co-Director of the LLM Specialism in Dispute Resolution, Director of the LLM Programme in Art, Business and Law, and Director of the Postgraduate Diploma Course in International Dispute Resolution (Mediation). Areas of current research focus, which complement her work on conflict and dispute resolution, include issues dealing with justice, social order, legal pluralism, and cultural property disputes.

Debbie has written extensively about dispute resolution processes and has been invited to speak at conferences and workshops internationally on various aspects of her research. In addition to publications on negotiation theory, the mediation process, legal culture and cultural property, Debbie's monograph regarding her observational study of mediations, *The Fugitive Identity of Mediation: Negotiations, Shift Changes and Allusionary Action* was published by Routledge in 2013.

Debbie is a qualified Barrister and Solicitor in Ontario Canada. She also trained as a mediator and became a community mediator in Toronto, Canada.

What we have also found is that the use

of mediation to help resolve a complaint doesn't necessarily have to be a formal process but can be as simple as using mediators as independent facilitators to host a meeting or a discussion. I am still struck by how that can change the dynamics of a meeting and help people to be heard.



EDINBURGH | 14 NOVEMBER

In addition to our guest speakers there will be a range of workshops and perhaps more importantly the opportunity to connect with other people interested in mediation. The workshop programme will be available soon.

### **Early Bird Bookings**

Bookings are now open via Eventbrite thorough the link below. With registration available from £60 it is a conference not to be missed.

## Mediation's a bit like riding a new kind of bike

John Sturrock

"I have been doing this for the last 40 years. I would prefer to continue to do it as I have always done. There's no need for this extra help. In fact, people would think I had gone a bit soft, or that I couldn't manage it myself. And not many people do it anyway. It's more costly too."

This was my response to my wife's suggestion that we should each obtain bicycles with electric batteries. I have cycled with vigour and enthusiasm all my life. The idea I might now need some help to do so was not welcome. I still want to show the world (and myself) that I have the ability to cycle just as I always have. It was lost on me that a different approach might enable us to explore new places, enjoy cycling over longer distances together, expand our travel options, add value to our holidays and share new, enriching experiences.

However, we tried out e-bikes at the cycle shop with the help of an excellent salesman and I began to see that this could be a game-changer. "Go for a ride," he said, "take your time. It's up to you". His experience and quiet authority gave us confidence; enough confidence, as it turned out, to make a purchase there and then.

We took the bikes on holiday and cycled for distances and to places we would never have contemplated under our own steam. The result was longer, tougher, more exhilarating cycle rides in the windswept Outer Hebrides. The penny dropped. This was a game-changer. And then another penny dropped: my experience was probably similar to that of many reluctant to use mediation. We



assume change will not be good for us, that we will lose control.

Having a battery on your bike does not mean you don't need to expend effort. You can cycle under your own steam for as long as you wish. You use your gears as normal. You retain complete physical control – and use the power in the battery only when you want to or really need it.

You have choices. On my bike, I have "eco" (minimal additional power, just to help a little when the going gets slightly tougher, making travel a bit more pleasurable), "tour" (for a longer ride, maybe with a good bit of headwind or a gradual incline over hundreds of metres), and "sport" (when you need a good boost in city traffic).

And then there is "turbo": it's a gravel path, the wheels are spinning, the gradient is 1:4 and, frankly, the alternative is to get off and push – or give up. "Turbo" is impressive and can make a real difference just when you need it. But if you rely on it overmuch, it

loses its value.

The analogy with mediation is obvious. Mediation is something which still seems new to many experienced professionals. They know what they are doing. They have done it for years. To seek additional help feels like weakness. Mediation looks like an additional cost. It probably feels easier to reject it than take the risk of apparently handing over control to something new and untested.

But of course, in mediation, people still have full control and need to work with considerable effort to make progress. However, they can also utilise a bit of

## Mediation's a bit like riding a new kind of bike

**John Sturrock**

extra assistance from the mediator when things might be getting tough, or to inject some real pace when it is needed. A light touch "eco" mode may be all that is required to ease the negotiations along. If a crisis occurs and the wheels are coming off (or perhaps just spinning too much), the mediator can bring stability and forward momentum to keep the show on the road.

At the end of the day, it is still all about choice. How far to go. What mode to use. How much help to engage. When to apply the brakes and say: enough.

Those who promote mediation need to appreciate that helping people to feel in control is probably critical. Any hint of condescension ("I know what is good for you") wouldn't have worked for us in the bike sale. How many of us have been guilty of over-pushing mediation because we know it is so much better?

Now all I need to do is overcome the embarrassment of powering past those lycra-dressed athletes on racing bikes on

Edinburgh hills. And remember to charge the battery...

Originally published in The Scotsman on Monday 26 August 2019.

### **Five-Day Mediation Skills Course, Edinburgh**

5, 6, 12, 13, 19 December 2019



Designed for people who will be using mediation skills in their work, this course is accredited by the Scottish Credit and Qualifications Framework. 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](mailto:infoscmc@sacro.org.uk) Course Fee is £600 per participant

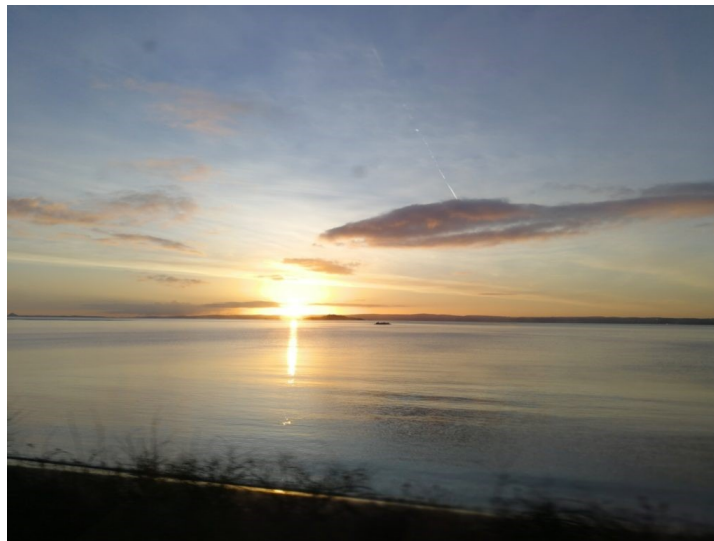
# Mediation on the Road

Graham Boyack

This month saw Scottish Mediation's third breakfast seminar where we've been presenting information about our report, 'Bringing Mediation into the mainstream in Civil Justice in Scotland'. We thought it was important to let people know about our report, to hear what people think about it. What they would like to see and to discuss how we can take the recommendation forward.

## Dundee

Our venue seemed appropriate as we were at the University of Dundee, who run a degree and diploma for law students. Out of the window we could see the Sheriff Court, various solicitors offices, the Citizens Advice Bureau, the Relationships Scotland office, a number of schools in Dundee where we have trained students in mediation skills, and in the room a number of mediators from the University's Early Dispute resolution service were present. Never mind City of Discovery, a City of Mediation.



## Types of Mediation

During our three seminars to date we have been given great feedback and ideas from those who attended. One of the points raised was that any introduction of mediation needs to take accounts of the type of case and recognise, for example, that family cases run differently in mediation. Compared to commercial mediations they rely less on formal agreements at the end of mediation. Whereas that is usually the norm in commercial cases. It is also a lot more common for lawyers to support clients at the mediation in commercial ones than in family cases. Such

feedback supports the reports approach making sure that we learn from what works and make sure in implementing proposals that different approaches are taken into account.

## Education

At today's seminar there was also a law student who has just completed her Diploma in Legal Practice and is about to commence a traineeship with a law firm. She commented that it would have helped her to have mediation as a core part of her law degree. She also felt that being given the skills of mediation would significantly

benefit her interactions with clients regardless of which dispute resolution mechanism was being used.

## Meeting Clients

At our Edinburgh seminar an offer was made to meet with people who have used mediation to gain further insight into how they felt it worked to help in-

form how proposals are taken forward. The offer was also made by another organisation to help map the likely user journeys that lead to the courts to see the best ways of making mediation a part of that process. We would view both of these as a great opportunity as such insight would help us to make sure we get it right.

## Domestic Violence

In Glasgow the point was made that the courts don't always deal well with cases involving domestic violence and that a concern was that cases might be asked to



## LLM/MSc Mediation and Conflict Resolution

**T**he 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.

**Legal training is not a pre-requisite; the MSc/LLM option caters for students from a wide range of disciplines.**

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.
  - The Mediation Clinic continues to increase 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. Cohorts have 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.

**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](mailto:hass-pgt-enquiries@strath.ac.uk)  
 t: 0141 444 8600

# Mediation on the Road

Graham Boyack

mediate when it was not appropriate. One of the mediation organisations commented that on occasion that they had to refer cases back to the court and that more comprehensive training in awareness around domestic violence and controlling behaviour would be of benefit across the court system. Our view is that involving people with expertise in this area in developing the systems used to introduce mediation will help mitigate any risks along with comprehensive awareness and skills training for those dealing with family cases.

## Popular Culture

One of the points raised in Edinburgh was litigation work due to seeing lots of legal drama's on TV, even if it's sometimes American court procedures that are covered. No-one had an immediate solution but someone did say they were off

to make a pitch to the BBC.

## Next Steps

Scottish Mediation will look to use the feedback we have gained from our roadshows, the research in our report and the response to Margaret Mitchell's Mediation Bill consultation to promote a collaborative discussion on how we can make the proposals a reality. That will involve a range of people including the Government, the Court Service, the Parliament, the legal profession and I would imagine a few more roadshows.

## Resolve conflicts at an early stage

### Mediation Skills

Perth 23rd and 24th September 2019 £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

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# Scottish Mediation News

## Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome Shaun McPhee, Robert Wylie, Catherine McDonald and Liz Cassidy as new individual members.

Carol Scott joins as a new Practitioner.

Argyle and Bute Family Mediation join as organisation members.

*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 autumn **CPD Confidentiality in Mediation**. It's taking place on 7th October in Edinburgh and on 21st October in Glasgow.

Led by Andrew Boyd This 3-hour interactive workshop facilitated by Andrew Boyd will consider what confidentiality means to mediators and their clients, what part it plays in the mediation session, in agreements and post session. Mediators will be invited to explore their own issues regarding confidentiality and have the opportunity to share and discuss how it has affected their practice

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

## Dig Deep Masterclass November 19th 2019

Facilitated by Alison Ebbitt and Charlie Irvine the masterclass will cover self reflective practice. It will run from 10am-1pm at 18 York Place, Edinburgh, EH1

3EP Further details and booking information coming soon!

Finally in December we are running our **Workplace Conversion Course** on 3rd and 4th December 2019.

This practical two day course – Tuesday 3rd and Wednesday 4th of December 2019 from 9.30-17.00 (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. This session will be facilitated by Carol Hope and Jeremy Scuse.

For further details and booking please click [here](#).

## Scottish Mediation Annual General Meeting

Scottish Mediation's Annual General Meeting is taking place on Monday October 7th. The meeting is being held at Anderson Strathern's Edinburgh Office at 1 Rutland Court, Edinburgh, EH3 8EY. The meeting provides an excellent opportunity to review the work of the last year and Scottish Mediation's plans for 2019-20.

From 4.45 refreshments will be served prior to our guest topic which will this year be on Scottish Mediation's Peer Mediation work. If you are interested in attending this event please email [admin@scottishmediation.org.uk](mailto:admin@scottishmediation.org.uk)



# Scottish Mediation News

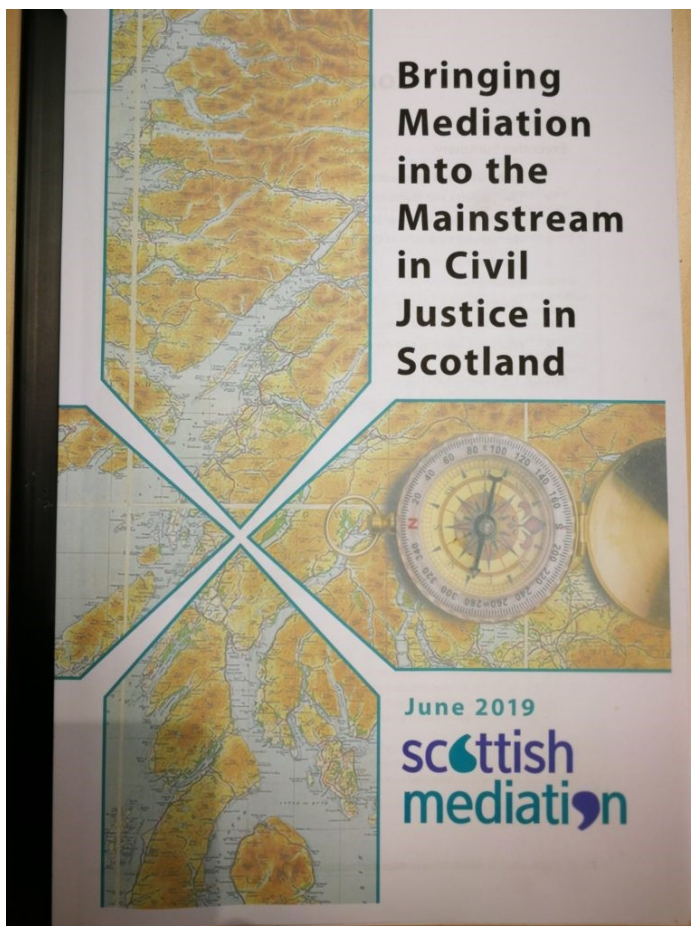
## Planning Bill Progress

The Planning (Scotland) Act was passed by the Scottish parliament at the end of June. Included in the Act is a commitment to include mediation as part of planning applications are considered in an effort to improve the system.

Now the Act is in place Scottish Mediation will be working with the Scottish Government and the planning profession to assist in making the guidance and any regulations on how this will work in practice come to life.

## Peer Mediation Conference

Scottish Mediation were delighted to hold a conference in September to celebrate and reflect on the work of it's Peer Mediation project Young Talk. The conference had a circus theme at Tynecastle Park in Edinburgh and was attended by young people, teachers and those involved in Peer mediation across Scotland.



Read Scottish Mediation's report on Mediation in the Civil Justice System in Scotland.

The report was drawn together by an Expert Group who oversaw a six month research project into civil justice in Scotland. The report makes radical proposals which would result in a greater use of mediation and be part of a modern person centred justice system for Scotland.

To read a copy of the report click [here](#).

## Board Profile - Alastair Fraser

***Alastair Fraser gives an insight into his passion for mediation and his involvement as a Trustee.***

### **What is your day job?**

For the last 30+ years I've been a business coach and organisational consultant, and in that time, I've worked with many interesting people and situations!

### **What motivates you to get up on a Monday morning?**

The variety of no two days being the same, coupled with my natural curiosity.

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

I've been a Trustee for a year now and am also Treasurer for Scottish Mediation. I got involved when I saw an advert looking for potential Trustees, and thought that I'd be interested to find out more as I am not a mediator by training, but that as most of the situations I've encountered in my working life have been around people, working relationships and organisational cultures, that it would be good to learn more, but also to perhaps bring a slightly different perspective to the Board.

### **Did you have any prior knowledge of or involvement with SM before?**

No!

### **What have been the highlights of your involvement with SM?**

The passion, energy and enthusiasm around the table as we position SM at the forefront of ADR with a wide spectrum of stakeholders. The high-level conversations and feedback taking place with very senior players that have been initiated by our Chair and Director are a measure of the success SM is creating with them for future partnerships.



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

Externally working in partnership with our stakeholders to create a vibrant, professional, supportive organisation that is seen as integral to their own culture and process.

### **The Charter and Mediation 2020 will be amongst the key drivers of this.**

Staying focused on the sheer number of spinning plates!

Identifying ones that are a bit shoogly, and being aware that some might drop but that others will be waiting in the wings. Fortunately, we have some good back up systems to help with this and are working hard with the ever-evolving SM.

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

Higher public perception of the value mediation can bring for everyone.

### **What keeps you busy outside of work?**

Playing – with my grandchildren, my guitars, and my old cars.

Travel with my wife – anywhere, anytime!

Oh and did I mention that sense of curiosity.....

# Workplace Employment Initiative Group

September 2019

Dear Scottish Mediation colleague

This is to let you know about the next meetings of the SM WEIG (Workplace & Employment Initiative Group). Meetings are kindly hosted at the SM offices at 18 York Place Edinburgh, and the main meeting runs from 14.00 - 16.00, and count as part of our CPD. There is usually a CPD-extra one hour session before or after the main meetings, looking at topics such as a case study of a dilemma in mediation.

Our next meeting will be on Thursday 10th October 2019

Speaker at 2.45pm: Heloise Murdoch, Court Mediation Coordinator, Edinburgh Sheriff Court Mediation Service: Court mediation and voluntariness / compulsion.

Extra CPD session at 12.45pm: Graham Boyack will update us on the Year of Mediation and Charter, and discuss: The mutual benefits of promoting the Charter & Year of Mediation to my network of contacts.

As usual, all members of SM are welcome to attend but please let the office know if you will be joining the meeting, as tea/coffee will only be ordered for the numbers confirmed!

Slainte  
Linn

Linn Phipps, Chair, SM WEIG, 07917 564440