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The Time is Now

At this years Scottish Parliament elections Scottish Mediation asked that parties consider the positive role that mediation has to play across all areas of Scottish life and to take forward policies into the parliament that would support mediation.

Members of Scottish Mediation contacted some of the local candidates to seek their views and highlight the positive options mediation presents.

The response has been positive. The SNP manifesto included

'We will expand the use of mediation and arbitration to ensure alternative dispute resolution is a central part of our legal system.'

Labour said they

'will increase access to earlier dispute resolution in civil cases.'

Though not in the manifesto the Lib Dems said

'We will enable people to exercise their rights whatever the challenge and wherever they live, through consistent and funded provision of advocacy services, securely funded legal aid, mediation and arbitration'

In addition both the SNP and Greens are committed to a Peace Institute/Scottish Centre for Peace promoting non-violent approaches to resolving conflict.

Scottish Mediation intends to follow up on these commitments and to continue to promote mediation as a way of doing government throughout the next Parliament.

Construction - Conflict Avoidance Pledge

Len Bunton

Len Bunton, Chair, Scottish Conflict Avoidance Process Working Group and Martin Burns, Head of ADR Research, RICS

We are grateful to Graham Boyack for the opportunity to talk about an encouraging campaign that is rapidly gaining traction in the Scottish Construction Industry.

Historically the construction industry has been plagued with disputes, mainly in relation to payment issues. Over 25 years ago, UK legislation introduced Adjudication as a process whereby any contractual dispute between parties could be referred to the decision of an independent adjudicator, with a binding decision being issued by the Adjudicator within a 28- or 42-day period. By and large the process has been highly successful, with the Royal Institution of Chartered Surveyors [RICS] becoming the leading Adjudicator Nominating Body (ANB) in the UK.

Adjudication has been an immense success over the past 23 years. However, the industry remains beset with conflicts across the supply chain. While adjudication has proven to be a quick and effective way of resolving disputes, there appears to be a growing appetite to manage potential problems earlier and, where possible, avoid disputes arising in the first place. The UK and devolved governments recognise that a more collaborative approach to procurement of public and private construction and engineering projects in the UK is the way forward. Part of this thinking is to try to eliminate construction disputes as widely as possible, thus reducing construction costs and in reducing parties' costs in resolving disputes. Where differences of opinion begin to emerge, parties should be encouraged to cooperate in dealing with them early and work towards achieving agreed outcomes.

The **RICS Conflict Avoidance Process [CAP]** is an early intervention process which addresses construction disputes early and with close involvement of the key

parties. It involves the utilisation of an impartial and experienced construction professional who is an expert in the subject which the parties are grappling with. The CAP professional's role is to advise and guide both parties equally and provide them with fully reasoned and non-binding recommendations for settlement. The process has very successfully cut its teeth over the past four years as result of cooperation between Transport for London [TfL] and its tiers one and two suppliers. The outcome has been that TfL has significantly reduced costs of resolving disputes. Most importantly, the non-adversarial, co-operative, nature of CAP has helped to preserve positive relationships between TfL and their contractors.



Photo by [Yancy Min](#) on [Unsplash](#)

In Scotland, the process is rapidly gaining traction. A **Scottish Conflict Avoidance Process Working Group** has been set up involving the RICS and representatives from procuring authorities, public and private sector procuring organisations, and representatives from various sectors, and contracting organisations. NHS Estates has introduced CAP into a 5-year £650 million Framework Agreement, and one Scottish local authority is including CAP into a £90 million building programme in 2021. Engagement is underway with local authorities, Scottish Futures Trust, housing

Construction - Conflict Avoidance Pledge

Len Bunton

associations and the university sector.

Individuals or organisations who would like to know more and get involved should sign the **Conflict Avoidance Pledge** (www.rics.org/capledge) which was conceived by a pan-industry steering group involving RICS and 9 other professional and industry bodies. The drive for improved collaboration and use of conflict avoidance techniques is perhaps the most progressive step taken by the construction industry for over 20 years. It will reduce disputes, reduce construction costs, will create better working relationships and enable projects to be delivered on time and on budget.

For further information go to www.rics.org/capledge or contact: Gemma Beasley gbeasley@rics.org or Frankie Shorter fshorter@rics.org



Restorative Skills training – July 2021

19, 20, 27 May, 1, 2, 9, 10 June 2021

This course provides a safe and enjoyable environment to learn the practical skills that are needed to become a trained restorative practitioner. It will be held online, using Zoom.

Learners are taken through all stages of the restorative process. The course demonstrates how the theory of restorative practice is applied to real life scenarios, and develops your ability to manage the restorative meeting.

“Out of all the courses I have taken part in, I have found this one of the most beneficial and relevant to my work.” [previous participant]

For more information and to book a place, please contact Robert Lambden at infoscmc@sacro.org.uk



A Net Zero Carbon Civil Justice System

John Sturrock

CO2 concentration in the atmosphere is at record levels, higher than for 3 million years. According to the former Governor of the Bank of England, and now UN special envoy on climate action and finance, Mark Carney, the world is on track for a 3 degree increase in warming. However, if we are to avoid irreparable damage to our environment and to our individual and collective futures, levels must be maintained at well below a 2 degree increase. The world faces tipping points such as disintegration of ice sheets, species extinction and permafrost thaw, along with biodiversity loss, drought, wildfires and flooding, which could push parts of the earth into irreversible changes and displace billions of people.

There is increasingly strong scientific and political consensus. The financial sector is beginning to understand the long-term consequences for economies, investment and risk. As President Biden made clear recently, this is the decade when things must change and this is the year when we must start to make a real difference. Whatever we all do in response to the COVID pandemic, we need also to address the implications of climate change and focus on achieving net zero carbon emissions as soon as possible. There is no time to waste. The Green Recovery needs to mean something. And to deliver.

The next Conference of the Parties on climate change, COP 26, will take place in Glasgow this November. Arguably, it is one of the most important global meetings ever. Nations need to commit to implementing what was agreed at a previous COP in Paris. Overall, we are told that this commitment has so far been woefully insufficient.

Whoever we are and however we go about our lives, we all have a part to play in this, as Scotland's Climate Assembly recently reminded us. The UK Committee on Climate Change has challenged us all in Scotland to walk the talk. The Scottish Government has set challenging targets for reducing carbon emissions to net zero by 2045. Scotland's public bodies are expected to lead by example and make "a valuable contribution" towards achieving these targets. Experts say that we need to translate big picture commitment into sectoral delivery and real results on the ground.

Recently in Scotland, a conference was held to discuss "Civil Business Post Covid", providing "a forum for a discussion amongst interested parties about how Court of Session and Sheriff Court civil business might be conducted once the pandemic is over."

In an article published that day, my question for the conference was this: How can we design a civil justice system in Scotland fit for the future, not only post Covid but addressing climate change and minimising environmental harm? How can we deliver a Net Zero Carbon civil justice system? With COP26 coming up, how can we show leadership to others?



Photo by [Chris LeBoutillier](#) on [Unsplash](#)

This raises some interesting further questions:

What will the Law Society of Scotland recommend to achieve an environmentally sustainable approach to helping clients resolve disputes?

What further can members of the Faculty of

A Net Zero Carbon Civil Justice System

John Sturrock

Advocates do to reduce carbon emissions?
How can the Scottish Courts and Tribunal Service do more with its online services to make a difference?
What encouragement might judges individually and collectively give to litigants?
What pledges or commitments might individuals and institutions in the civil justice system give to achieve net zero outcomes?
How can those in the civil justice system involve the general public in a cooperative effort to produce tangible results?
What might we learn from other civil justice systems in their response to climate change?
In practice, what might this mean in the civil justice system for patterns of consumption, use of renewables, travel and various forms of process?

The Master of the Rolls, Sir Geoffrey Voss, recently set out radical proposals for an ef-

fective and efficient civil justice system in England and Wales, including online integration of alternatives such as mediation, leading, he argues, to significant economic benefits for the country. The objective for the Scottish civil justice system must surely be to move from traditional resource-heavy processes to those which achieve the twin benefits of efficient dispute resolution and a lower carbon footprint.

“This is not for us...” won’t do. We’re all in this together. Those of us in mainstream professional activities in Scotland, including the civil justice system, must act now.

And a question for Collaborate readers: what can we mediators do to promote this idea?

(The original of this article appeared in The Scotsman on 10 May 2021).

Topics Covered

The myths and facts about workplace bullying

How to assess the suitability of bullying cases for mediation

When not to mediate

Handling tensions arising from HR expectations to resolve the case

Why you should not profile the “bully”

How to mediate a bullying case safely

Ethical issues related to bullying cases

CPD Short Course Bullying & Workplace Mediation

Friday 14 & 21 May
9:30-12:30 GMT

This course will introduce you to the use of workplace mediation with cases of bullying. We will explore how to assess the suitability of bullying cases for workplace mediation and how to best handle the cases you do mediate.

The course will be led by Tony Buon a very experienced Scottish Mediation & CMC Registered Civil and Workplace Mediator, Trainer and, Author.

This course will be conducted over two mornings 9:30-12:30 GMT. There is 2-hours of optional homework between the two sessions, for 8-hours CPD.

The total cost is £45 including VAT. You will receive Handouts, PPT Slides and a Certificate. Book now or call to reserve your place.

<https://bullyingcpd.eventbrite.com>

Buon Consultancy 101 George St, Edinburgh EH2 3ES ☎ 07762709377

www.buon.net

buonconsultancy
solving problems

Choosing Peace through Dialogue

Carolyn Merry

Place for Hope will soon launch its new 5-year strategy, entitled: Choosing Peace in times of fear and division. It is a title that sets our work distinctly within the times in which we live, in the wake of a pandemic that has not only affected all of us but has highlighted and exacerbated deep fracture lines in our world and heightened fears for the future. These are indeed extraordinary times, and for those who view the world in the arc of history, in many ways they are also dangerous times. Our lives, communities and world are undergoing rapid and sometimes profound changes with global trends towards austerity, populism, rising hate crime, terrorism, community isolation and increased fears and violence. It is a moment in which there has never been a greater need for peacemakers – those who will make choices each day to build genuine peace as they transform conflict, reconcile brokenness and division, live well with difference and work for the flourishing of all people and the planet.

An important part of choosing peace is through dialogue. Dialogue is so different from other forms of discourse, particularly debate or other combative forms of communication that have become the norm today, especially in the public sphere. Those forms of communication are often aimed at winning an argument, gaining what we want, or convincing the other to change their belief, opinion, or idea.

Dialogue on the other hand is a powerful and generous tool for us as we endeavour to live as peacemakers and reconcilers. As Susan H Allen identified, dialogue does several important things: "It furthers understanding of diverse and often opposing viewpoints, it develops shared analysis, and it paves the way for future actions toward peace." These things are important in all aspects of our lives, whether in our personal relationships, community or professional lives. Dialogue allows us to hold space for mutual recognition of one another as people of value and worth, for exchange of deeper meanings and crucially, for gaining new understanding.

Through dialogue, we can come to see that diversity can enrich and enable us to hold healthy relationships across all sorts of divides.

Dialogue, to achieve these aims, requires us to enter it with some inner preparation. Firstly, it requires a sense of humility - that we don't know everything and will always have something to learn. This in turn requires us to have the courage and willingness to change – not necessarily changing our beliefs or ideas, but rather growing in our understanding of why we and others hold different beliefs or views.

There are skills for good dialogue that can be learned and practiced over a lifetime, but all

of us can (and indeed do) engage in dialogue even without training. Key is to share with others your own thoughts, beliefs and feelings with honesty and respect and to listen with empathy as others do the same. To truly listen, we need to do so not with the aim of responding but with the genuine desire to



understand and in turn, any questions we ask need to be aimed not at demeaning the person or their words, but rather to further clarify and deepen that understanding. It can also be helpful to be aware of some of the barriers we may have that prevent good dialogue, such as: rehearsing our response whilst someone else is speaking, judging the other, filtering what is being shared, assuming we are right, and not knowing what things might trigger a negative response in ourselves or others. Holding the space for forging new understandings means suspending judgement for a period to explore and truly understand the why (the hopes & needs) underpinning someone holding a particular belief or position. Dialogue whether between two people or in groups, does not mean that all ideas are of equal merit but it does require us to understand why another may hold them and respect them as an individual on their own journey, even if we disagree passionately with their views.

Choosing Peace through Dialogue

Carolyn Merry

In doing so, dialogue enables both parties to go beyond the superficial and competitive level of discourse to give us a deeper sense of understanding from which we can together generate creative ways forward that previously may not have even been imagined. This can transform not only the conflict but also all those involved.

Dialogue takes courage and hope; courage to open ourselves up to changed understandings and growth; and hope - that through dialogue our relationships and the future can be better than was previously possible. Dialogue is a risky space, but a critically important one if we are to seize this moment of fear and division and work towards a more peaceful, inclusive and loving world for all. Dialogue is also incredibly gracious space in which new understanding, new possibilities and deeper community can be forged. It is my genuine hope that we will all increasingly choose to create space for such dialogue as we emerge from pandemic - with those we love...and those we fear.

Reach out to those you fear.
Touch the heart of complexity.
Imagine beyond what is seen.
Risk vulnerability one step at a time.
~ John Paul Lederach

Please contact info@placeforhope.org.uk if you would like to know more about further training in dialogue and other peacemaking skills.

Place for Hope is a charity that exists to accompany and equip people and faith communities so that all may reach their potential as peacemakers, able to navigate change and conflict well. For over 10 years, Place for Hope has provided high quality mediation and training services in faith-based peace and reconciliation aimed at supporting faith communities to: notice brokenness and division, nurture relationships and community, navigate conflict with graciousness and nourish wholeness in themselves and their communities.

Post: Training Manager

Salary Scale: £35,480 - £36,596 (full time equivalent per annum; starting scale dependent on skill and experience)

Status: Part Time, Permanent – 21 hours p/w (open to some negotiation)

Location: Home Working, with travel for events throughout Scotland

Closing Date for Applications: 19/05/21 at 12 noon

Interviews will be held online on: 01/06/21

Start date: tbc depending on availability, but w/c 14/06/21 would be ideal.

Job Summary

The role of Training Manager is a key position in supporting the charity's strategic goal of growing our outstanding training programmes to equip more people and faith communities to reach their potential as peacemakers. The Training Manager has particular responsibility for enhancing and delivering our external training programmes, including our set programmes and those we tailor for clients. In addition, they will oversee the recruitment and ongoing training (CPD) of our Practitioners. Previous high-level experience of training, resourcing and equipping in the charity sector, as well as a passion for peacemaking is essential. This is an exciting time to join Place for Hope and play a pivotal and strategic role in equipping faith communities to choose peace in times of fear and division.

Organisation Profile

Place for Hope is a Scottish Charity, passionate about developing peacemakers in faith communities. We accompany people experiencing conflict and equip and train people to navigate change and conflict well. To deliver this purpose, we are privileged to have a highly trained, multi-denominational team of volunteer Practitioners who have expertise in mediation, training and facilitation. The Practitioners are supported by our small, dedicated staff team.

Equal Opportunity Employer

Place for Hope, as an independent Scottish Charity (SCO45224), is an equal opportunity organisation and does not discriminate on the grounds of race, religion or belief, gender, disability, sexual orientation or age. For more information about us, please visit www.placeforhope.org.uk

Please download the job application pack at www.placeforhope.org.uk or for more information contact

Carolyn Merry: carolyn.merry@placeforhope.org.uk



Scottish Mediation News

Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome Joanne Bowerman, Andrew Glass and Elizabeth Glass who join as new individual members.

Chris Whitehead join as practitioner 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](#).

Good Bye and Thanks You So Much

The end of April saw the retirement of Sarah Welsh our Peer Mediation Coordinator.

Sarah joined SM to take forward our work on engaging young people in mediation back in 2017 and has done an excellent job working with students, teachers and schools.



Everyone at SM wishes Sarah a happy retirement.

In the interim if you have any enquiries about SM's work on Peer Mediation please contact kathryn.hilditch@scottishmediation.org.uk

The Core Challenge Event

1730, Tuesday 18 May 2021

This event, held in association with [Young Mediators](#) on **Tuesday 18 May at 1730**, will showcase each of the entries in **The Core Challenge**, a competition to celebrate Core's 20th anniversary for young professionals on the theme: *"What one change would make a real difference and increase the use of mediation in civil and commercial cases in Scotland?"*

The event will provide a forum for each of the entries to be discussed with the audience (with a view to them to be synthesised into a single overall presentation to policy-makers). This event is open to all, with a limited number of places to enable really good discussion. Please do register for one of the few remaining spaces.

We will hear from the winning entrant and the recipient of The Core @ 20 Prize, Sarah-Jane Macdonald of Gillespie Macandrew LLP. The five runners up will also be present. They are Mitchell Abbott (CMS), Megan Anderson (Anderson Strathern), Lorna MacFarlane (Dentons), Amy Roberts (CMS) and Hikari Saito (PhD student at the University of Aberdeen).

[Register here](#)



Returning to Work After Covid

Graham Boyack

As someone who is generally optimistic by nature I am looking forward to the easing of lockdown and being able to meet friends in person, being able to travel and to go out for food and drink again. That said when I don my work hat, I have some concerns about what the next year will bring.

The experience of the last year has certainly been different and if lockdown has been a shock to the system, then we should expect that 'returning' to work is likely to be a similar shock. For some that might mean furlough turning into redundancy for others it may mean either changes to the organisations they work for and for many changes to the way that they work. With big changes will come uncertainty, the need for good communication, listening and empathy. However I suspect that whatever reasons, not all of these will be deployed and in the worst circumstances none of them will. As a result there is likely to be an increase in disputes arising in the workplace.

During the lockdown working patterns have changed and people have adapted to working online or in different circumstances in the workplace if remote working hasn't been possible. For some aspects of working from home have led to better engagement, more productivity and ironically better communication. It has also meant less time spent commuting, more flexibility for parents and a greater ability to attend meetings where there is a wide geographical spread of attendees. The challenge therefore will be how to move forward in a way which makes the most of the changes that have happened whilst moving to whatever new working

arrangements are agreed.

The ideal of way of avoiding disputes around these issues will be for open conversations within organisations that try to understand the options and where possible take into accounts the positives that have arisen during Covid. Many organisations will have employees and leaders who have the skills of mediation and are able to deploy them into these discussions. For those who haven't there are many mediators who are experienced in hosting such conversations and have experience in working with organisations.

Where disputes do arise it would certainly be worth considering the use mediation. The different dynamic which mediation can provide for such discussions has been used successfully in many workplaces over the years, helping people to move on and repair relationships.

At Scottish Mediation we have a Register of mediators who have a range of different backgrounds and experiences that can help organisations. You can access them via our website using our Find a Mediator page or by using our Helpline 0131 556 8118. As we're not yet back in the office we'd ask you to either email us on admin@scottishmediation.org.uk or leave a message on the Helpline answerphone.

I know that in Scottish Mediation we are already having conversations about what working life is going to look like post Covid and I think it will be different from what it was before. As Director I'll be deploying my listening skills to make sure we don't miss any opportunities.



Photo by [DICSON](#) on [Unsplash](#)



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, in Scotland and overseas.

Legal training is not a pre-requisite; the MSc/LLM option means students from a wide range of disciplines can tailor the course to their needs.

Distinctive features include:

- A thorough introduction to the academic study of mediation
- A focus on interpersonal mediation skills including the ability to deliver online mediation
- **The Mediation Clinic**, enabling students to work closely with experienced mediators. The arrival of Simple Procedure has brought many more cases to the Clinic, increasing the opportunities for students to gain real world experience
- 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. Recent cohorts have included students from India, New Zealand, Ecuador, Brazil, Ghana, Nigeria, Seychelles, China, Canada, USA, Germany, Spain, Czech Republic, Poland, Belgium, Iceland and the UK
- Suitable for leaders, 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 and arbitration plus classes from throughout the Law School.

Start Date: September each year
Mode of Study: Full-Time or Part-Time taught by a combination of evening lectures and intensive weekend sessions. For 2020 we are introducing a blend of online and face-to-face teaching.



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

Scottish Mediation Events

Introduction to Common Mental Health Issues and Their Impact on Mediation

Tuesday 1 June 2021
10.00am-12 noon

Session leader, Rachel Weiss (biography below) will give an overview of the most common mental health issues in the workplace:

- Depression
- Anxiety
- Stress
- Trauma and Adverse Childhood Experiences (ACEs)

Covering definition and what can be done to mitigate the symptoms.

We will discuss how these mental health issues can affect participants' ability to

engage in the mediation process and what mediators can do to make mediation more accessible.

Rachel is an accredited counsellor, a credentialed coach and is on the Scottish Mediation Register, specialising in workplace mediations.

Rachel founded Rowan Consultancy in Perth in 1997, which now has consultants throughout the UK helping people lead more satisfying lives, through employee counselling services, workplace mediation, coaching and inhouse training in emotional intelligence topics.

For more information and to book a place click [here](#).

Resolve conflicts at an early stage

Mediation Skills

Perth 28th and 29th September 2021 £480 + 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



Workplace Employment Initiative Group

May 2021

Dear Scottish Mediation colleague

Our next ,meeting takes in June date tbc. (Please look out on the Scottish Mediation website for details)

Our meeting will feature speakers from India reflecting on the practice of mediation around the courts and employment.

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.

This meeting will take place online and to receive a link for the meeting 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