

In this edition of Collaborate Page

Mediate 2021

Exciting programme confirmed and tickets on sale.

1

What are we waiting for?

John Sturrock looks at the Civil Justice Council (England) proposals for mediation.

2,3

Mediation and Climate Change

Graham Boyack highlights the positive role mediation can play in preventing a climate disaster.

5,6

Scottish Mediation AGM

Report on the SM AGM from earlier this month

7

Scottish Mediation News

News and events from Scottish Mediation.

8

Workplace Employment Group

Next meeting plans.

9

Adverts from:
University of Strathclyde, Scottish Community Mediation Centre, Mediation Partnership, Core Solutions and Rowan Consultancy.



Mediate 2021

We're delighted to have David Liddell, author of the new book Transformational Culture, Liz Stokoe author of Talk: The Science of Conversation and Anna Howard author of EU Cross-Border Commercial Mediation: Listening to Disputants - Changing the Frame; Framing the Changes as our keynote speakers.

We'll also be discussing diversity in mediation, peer mediation in Argentina, the future of community mediation and how being online has impacted on mediation.

Our theme changing the frame: framing the changes will allow exploration of how mediation is perceived and what is needed for a wider use and engagement with mediation.

The conference is taking place on Monday 15th November (am) and Tuesday 16th November (pm) online and you can come to some or all of the conference.

For tickets and more information click [here](#).



ONLINE | 15-16 NOVEMBER

Time to Regain Momentum

John Sturrock

I have written many times in this column about the benefits of mediation. I have been aware of the dangers of overkill, special pleading ("he would say that wouldn't he") or being a prophet without honour in his own land.

However, recent developments south of the border prompt me to return to the mediation theme. Momentum is gathering elsewhere and, after a flourish a couple of years ago, I worry that Scotland might fall behind. This is important as those who have disputes to resolve may go where the system appears more flexible and progressive.

Mediation has often been used interchangeably and misleadingly with the term "alternative dispute resolution" (ADR). In April Sir Geoffrey Vos, Master of the Rolls and head of civil justice in England and Wales, said that he disliked the label "alternative" for non-court dispute resolution and he wanted the process moved into the mainstream. He observed: "ADR should no longer be viewed as alternative, but as an integral part of the dispute resolution process; that process should focus on resolution rather than dispute."

More recently, a report from the Civil Justice Council (CJC) in England and Wales, led by Lady Justice Asplin, described ADR as a collective term for all dispute resolution methods, of which mediation is probably the most significant, where third parties assist people to explore resolution of a claim. Recognising existing compulsory initiatives, but also marking a departure from a landmark case seventeen years ago, the report concluded that requiring parties to attempt ADR at a certain stage or stages and/or permitting the court to make an order to that effect would be both lawful and "potentially an extremely positive development".



Photo by [Thomas Ashlock](#) on [Unsplash](#)

With successful outcomes being achieved in the large majority of mediated cases, this makes sense, especially when the costs of litigating are often disproportionate to the sums in dispute in the case. As a mediator, I have lost count of the number of cases where the settlement amount agreed in mediation is less than the total legal costs to date and where costs become the major sticking point.

The report recognised that "more work is necessary in order to determine the types of claim and the situations in which compulsory ADR would be

Time to Regain Momentum

John Sturrock

appropriate and most effective for all concerned.” There is no one-size-fits-all approach. A number of questions arise: What form of ADR is appropriate for different types of case and at what stage? Are some cases better suited than others? Might ADR be disproportionate in terms of time and cost having regard to the amounts at stake?

Remember that no one is saying that parties to a dispute can be compelled to come to an agreement in mediation. Only that they may be required to try it. As the CJC report confirms, the common feature of the various ADR techniques is that parties at all times retain the ability to refuse to settle and return to the court if they wish to do so.

As one observer commented: “Making ADR mandatory does not guarantee that cases settle, but you do create more opportunities for the rational assessment of litigation risk and to agree on remedies that the courts cannot provide.”

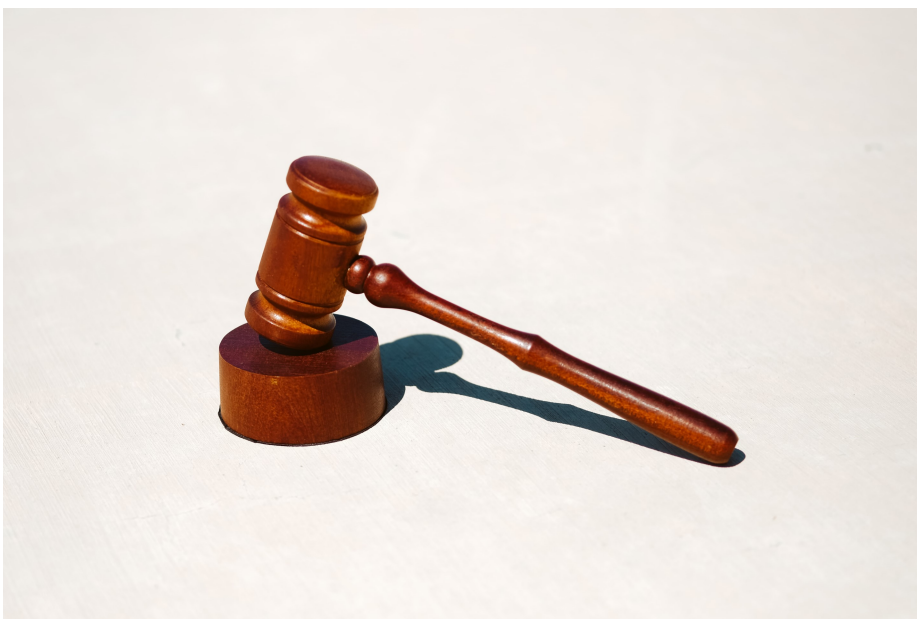
The UK Government’s recent consultation on ‘Reforming Competition and Consumer Policy’ includes proposals to increase the uptake of ADR as a way to support consumers. In particular, the Government is seeking views on whether to make business participation in ADR mandatory in the motor vehicles sector and the home improvements market.

Following the CJC report, the UK Ministry of Justice has launched a call for evidence on the best ways to settle family, business and other civil disputes without resorting to litigation, with this message:

“For far too long the so-called “alternative” approaches to court have

been seen as an add-on or diversion for people seeking to resolve a dispute... We want to support people to get the most effective resolution without devoting more resources than necessary – financial, intellectual and emotional – to resolve their dispute.”

This is not just about compulsory ADR. It is also about how to ensure that all cases are resolved quickly, cost effectively and fairly, especially post-pandemic. The key therefore seems to be engaging with the detail rather than the principle. Have we reached this stage in Scotland? If



not, now is a good time to regain momentum.

John Sturrock, The Scotsman, Monday 23 August 2021



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.

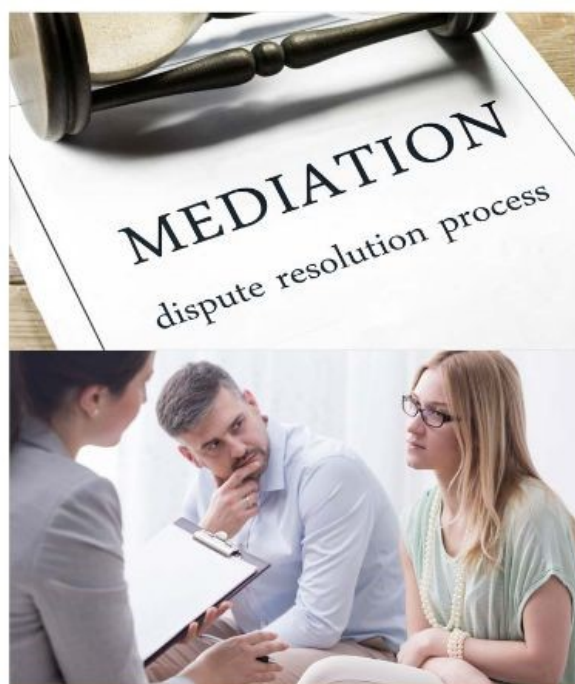
Legal training is not a pre-requisite; the MSc/LLM option means students from a wide range of disciplines can tailor the course to their needs.

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

Mediation's Key Role in Meeting Climate Targets

Graham Boyack

As COP26 rapidly approaches many mediators have been thinking about how they can play a positive role in helping to deliver the ambitious targets needed to prevent a climate disaster. It is clear that we are a small community but the supermarket slogan "every little helps" definitely applies.

One of the ways mediators can help is by learning lessons and adapting practices based on what has been happening in the Covid pandemic.

forward. All this in contrast to the days when "technology" didn't have much of a role to play for the mediator.

So how does this impact the climate? The most obvious way is that the environmental cost of transporting everyone involved to be in one place, which can be significant, can now be avoided. An additional environmental impact is the reduction in the amount of paper being generated. Documents can easily be shared and read online and multiple sets don't have to be printed for everyone involved. Even where it is felt necessary for parties to meet in person I will certainly be asking if everyone involved needs to attend physically and I'll be thinking about what the most sustainable way to travel will be.

If online mediation is to play a big part of the future, then mediators will also need to share their experiences and

adapt their practice to ensure that the mediation they deliver meets the appropriate standards and meets the needs and expectations of the parties involved. Scottish Mediation is supporting those discussions and is ready to make sure that our standards cover "online" as effectively as they do "in person" mediation.

The other things we are doing include encouraging mediators to consider their environmental impact by signing

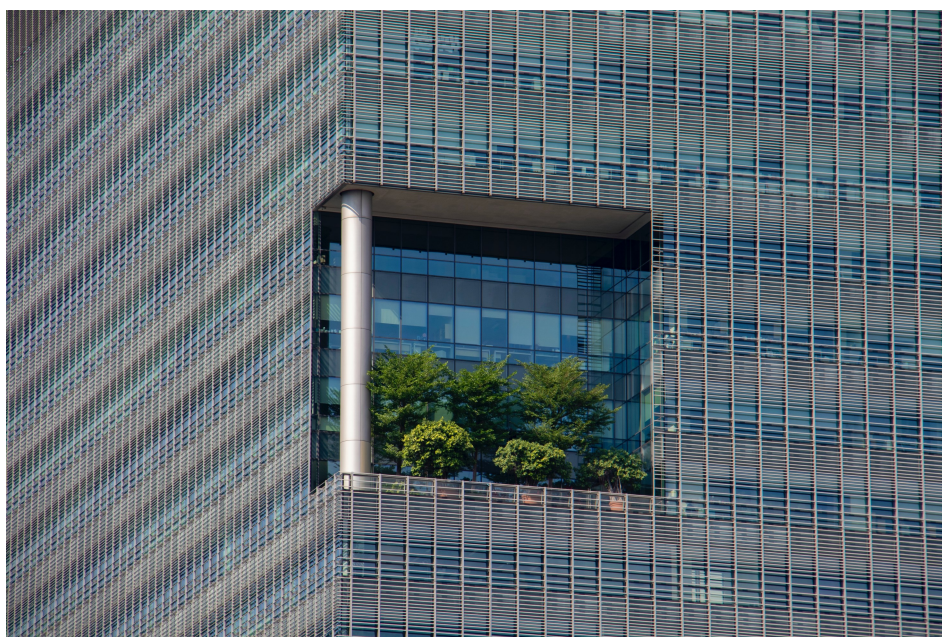


Photo by [Nick Fewings](#) on [Unsplash](#)

During that period there has been an explosion in online activity with mediation happening in people's homes on a screen with mediators in their homes too. Not only has that been convenient, and whilst the experience has been different, it has certainly worked. Now, whilst not all mediations will be as effective online, there are likely to be a significant amount that will be; certainly enough to make online mediation a central part of mediation delivery as we go

Mediation's Key Role in Meeting Climate Targets

Graham Boyack

up to and promoting the Mediators' Green Pledge. <https://womacc.org/mediators-green-pledge/>

There is however a great deal more that we can do and the critical one for me is how we can use mediation and a mediation approach to help the difficult discussions that are taking place across the world to make net zero a reality in day to day lives. Instead of creating the change we all know we need by telling people to comply by passing laws we believe that real change can come more effectively by getting people to agree to change their approach.

As an example of this approach organisations across Scotland are signing up to Regional Land Use Partnerships supported by the Scottish Government. It's a great initiative and it's clear that there's a lot of goodwill to move discussions forward. There will be times where disputes will arise whether through misunderstanding someone's motives, not understanding the practical difficulties people face or because it doesn't look possible for different positions to be resolved. Mediators are used to dealing with these sorts of difficulties everyday and whilst the situations are likely to be complex, getting to what people needs are in

such situations can play a positive part in delivering the sorts of solutions that will be needed.

In the run up to COP26 there are likely to be a great number of negotiations going on between nations and groups of nations in order to be



Photo by [Jennifer Griffin](#) on [Unsplash](#)

able to come to agreements on a global level, about the actions needed. Whilst these discussions are very much in the public eye and very political, I know there will be mediators supporting them in the background. I do hope that common ground is able to be established and that the different needs of those nations and groups of nations can be recognised in a way that allows the global community to agree on the actions needed to move forward.

Scottish Mediation AGM

Scottish Mediation were delighted to welcome 40 people to our AGM to hear about the year just gone, to hold elections and to hear our guest speaker Ruth Harvey Leader of the Iona Community.

report from the Director. Highlights within those reports included an increase in people using the public mediation help-line resulting in either information being given or referral to either family and community services or to SM mediators on the Scottish Mediation Register.

One of the key tasks of the AGM is to approve new Board members and to that end Sarah Allen, Len Bunton and Dave Scott have all joined the Board this year. We also mark the stepping down of Board members. This year Linn Phipps after her maximum 9 year term stepped down having latterly been Vice Chair responsible for the Excellence Committee. Joining her was Hilary Wiggans who gave 6 years service. Thanks to both of them was given at the meeting.

The report also highlighted seminars and events held and that this had enabled more people to attend throughout the year.

A copy of the annual review is available [here](#).

The committee received the annual report and accounts and a wider activity



THE MEDIATION PARTNERSHIP

Online SM Accredited Mediator Training



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

N.B. This course will be delivered via Zoom over eight morning sessions with an additional half day assessment

**Dates: Thurs 4th, Fri 5th, Thurs 11th, Fri 12th, Thurs 18th,
Fri 19th, Weds 24th & Thurs 25th November 2021
(Assessment Fri 26th November 2021)**

This intensive online 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

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

Scottish Mediation News

Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome Derek Auchie, Pauline Mckay and Margaret Stewart who join as a practitioner member.

Dave Scott, Gail Smillie, Alison Bell and Lisa Cattanaich join as individual 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](#).

Reflective Practice

This Scottish Mediation seminar (run by Roy Poyntz) will build on the foundations laid in our earlier June 2021 meeting, although you don't have to have attended: all welcome. It will be a highly interactive

encounter with reflective practice using exercises, group work and applications. It will be of relevance to mediators of all levels of experience and to those who practice as co-mediators and/or solo.

Argyris and Schön – two leading scholars in the field – propose that reflective practice is a route for a professional to construct their own personal theory of practice. We will explore this concept and how it leads to an assurance of competence whilst also representing what makes each of us distinctive. The seminar will blend theory – as a language with explanatory power – with practical exercises that will promote both reflective and reflexive learning.

For more details and how to book click [here](#).

Mediators' Green Pledge

Nearly 400 mediators worldwide have now signed the Pledge. Have you? Go to <https://womacc.org/>.

During COP 26, on Friday 5 November, WoMACC is holding a seminar to promote and discuss implementation of the Mediators Green Pledge and to consider the practical steps which mediators can take to make a difference. Please [make contact](#) if you would like to take part.

Workplace Employment Initiative Group

October 2021

Dear Scottish Mediation colleague

Our next ,meeting takes on **Thursday 28 October 2021**
1-3pm (on zoom).

Our guest speaker will be John Armstrong, MSc Student of Mediation and Conflict Resolution, University of Strathclyde, on: "Mediation and Coaching, how can or does a coaching approach influence your mediation style?" John will talk about his research into how coaching approaches are used in mediation, and then we will have opportunity for small-group discussion in zoom "breakout rooms", on what questions John should be posing to mediators - and what are our own views on these questions. There will also be an opportunity for subsequent engagement on this.

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