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Big Changes in Civil Justice Across the UK

In the space of a couple of weeks big changes have been announced for Civil Justice in the UK.

In Scotland Victims and Community Safety Minister Siobhian Brown launched an expansion of mediation in Sheriff Courts across Scotland. Free mediation services, backed by more than £250,000 of Scottish Government funding in 2023-2024, are available for civil disputes involving sums up to £5,000, with hundreds of cases referred to the hubs every year. Examples of such disputes include those involving goods and services, building work, unpaid bills, employment and vehicle disputes.

The services offer those who are eligible an opportunity to negotiate a mutually acceptable resolution to their civil dispute, reducing the stress, cost and time of going through a court process.

Mediation hubs already exist in 22 sheriff court areas – 18 are delivered by the University of Strathclyde Mediation Clinic and four by Edinburgh CAB Mediation Services. The expansion will see the University of Strathclyde Mediation Clinic open a further 17 hubs across the country.

The minister commented “Civil disputes, especially when they end up in court, can be costly and time-consuming for those involved and can affect individuals, communities and organisations. Mediation within the civil justice system offers the opportunity for a more flexible and affordable way to resolve those disputes. “The expansion of the availability of

Civil Justice Mediation Expansion

Graham Boyack

mediation services will widen access to justice for citizens and businesses consistently across the whole of Scotland."



In England and Wales I a legal case Churchill v. Merthyr Tydfil County Borough Council [2023] EWCA Civ 1416 the appeal court reversed a previous legal principle that said forcing unwilling parties to mediation infringed their right to access court. The ruling allows proceedings to be stayed in order for parties to engage in processes such as mediation.

The ruling is important as it allows judges, where they see fit, to refer a case to mediation, based on the circumstances of the case. It is not a blanket approval of the referral of all cases to mediation but one which applies where the circumstances of the case warrant it. Previously there had been concerns that a referral to mediation might breach article 6 of the Human Rights Act. This ruling clarifies that.

In addition with the scheduled

introduction of mandatory ADR (including mediation) for small claims cases in England and Wales and talk of moves to do similar in other cases types, it will be interesting to see how the UK parliament regard such proposals.

The contrast between Scotland and England and Wales seems both to be around whether or not mandatory mediation will be used and the extent to which other cases types will be encouraged to use mediation.

Common to both jurisdictions however is that mediation bodies are examining Practice Standards and Codes of Conduct to ensure that they are both fit for purpose and provide comfort to users of mediation and that their mediators are properly qualified. If something does go wrong that there should be suitable systems of redress available to the users of mediation.



In Scotland there are a number of further areas where the wider use of mediation would make sense. One of those is in Ordinary Cause Cases, with case values between

£5000, and £100,000 it is the case that to pursue a case can exceed the amount awarded. In construction failure to resolve cases can lead to Firms' financial viability coming into question. There are many other areas where a wider use of mediation would make sense and I think following Churchill those opportunities will be looked at more closely.



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.

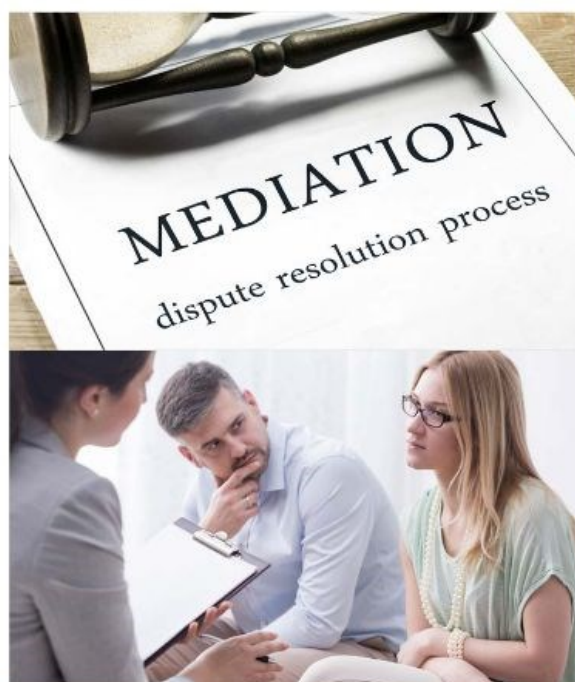
Legal training is not a pre-requisite; the MSc/LLM option means students from a wide range of disciplines can tailor the course to their needs.

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

An Exciting Year of Peer Mediation

Kathryn Hilditch

As 2023 is coming to a close we have been reflecting on our work in peer mediation over the last year. It's certainly been a busy one and we are excited about all of the peer mediation opportunities we have lined up for 2024.



Three members of the peer mediation team at Lynburn Primary School with their Nurture Teacher, Emily Laranja at the Scottish Parliament, September 2023

We are delighted that we have managed to develop a panel of peer mediation trainers this year who will be supporting us in delivering training moving forward. The group are all SM members who put themselves forward for the role having a strong interest in supporting young people to develop mediation skills. They have all received training and most have now had the opportunity to shadow and/or support the training directly with young people. The group have all been fantastic and show such commitment to peer mediation. We thank them all and we are really looking forward to seeing how this develops over the next few years!

As ever we are receiving lots of interest in peer mediation from schools and we are working with them to decide when the right time for them to implement peer mediation might be. We have also been working on two pilot projects – one with Fife High Schools and one across

two areas within Perth and Kinross. It looks likely that there will be lots of work to come out of these in 2024.

We were delighted that ourselves and some Fife peer mediators were able to take part in the Quakers Peace at the Heart of Education Exhibition in the Scottish Parliament in September. This was a great opportunity to meet and chat about peer mediation with MSPs, many of whom were very supportive of the idea and approach. We are following up on some of these conversations and looking into whether a follow up event at the Scottish Parliament looking specifically at peer mediation might be a possibility. We'll update you as we find out more about this!

We are also very pleased to let everyone know what we have employed a new part-time Peer Mediation Coordinator who will be joining us in January. We will introduce her properly in the next edition but she brings excellent experience and we are very excited about her joining the team at such a fantastic time for peer mediation.

And finally, a big thank you to all of the amazing schools and young people who have taken part in peer mediation this year and also in previous years. It is such a joy and a privilege to have the opportunity to



Heather and the adults trainees at Queen Anne High School in Dunfermline, September 2023

work with them and to be a part of their journey towards more positive relationships as a result of the development of better conflict resolution and communication skills.

Mediation News

Family Mediation Course Starts in the New Year

In conjunction with CALM Scotland and Consensus Collaboration Scottish Mediation is delighted that registrations are now open for Family Mediation Training. The portfolio Course runs over 9 modules and once appropriate experience has been gained those completing the course can apply to join Scottish Mediation's Family Mediation Register. This register is approved by the Lord President's Office allowing registrants to undertake court referred family mediation work.



The nine modules cover a range of topics including Scots Family Law and Procedure including the law relating to family disputes, Theory & Practice of Effective Negotiation, Adult Dynamics & Reaction to Loss, Domestic abuse/ protection issues and ethical considerations, Core Collaborative Practice, Advanced Elements in Negotiation, Child Development, Child Development, Children's Reaction to Separation and finally Core Mediation Training which brings together all the above modules in a practical way.

All modules attended can count towards Collaborative / Mediation training for a period of three years only. Solicitors must have significant family law experience before undertaking Collaborative and Mediation Practice.

Scottish Mediation Members seeking accreditation that includes financial issues in mediation would need to complete a relevant CALM National training during the year which would be a full day training in person.

For full details of the programme please click [here](#).

March 24 Mediation Clinics Conference

On Thursday 21st March 2024 the University of Strathclyde's Mediation Clinic will be hosting a Mediation Clinics conference. Bringing people together who work for mediation clinics across the globe the conference theme is Learning through Practice: Mediation Clinics and Mediator Education.

Mediate 23 Review

In early November the Norton Park Conference Centre played host to Mediate 23. With a combined attendance of in person and online just short of 90 people it was one the best attended in recent years.



Highlights included Gerry O'Sullivan and John Lande as keynote speakers and a range of workshops.

Next year's conference is scheduled for November 2024.

New Board Members for Scottish Mediation

Graham Boyack

Three New Board Members for Scottish Mediation

At the Scottish Mediation AGM in October members confirmed the election to SM's Board of three new members.

The Board serve three years terms and every effort is made to ensure SM has as diverse a Board as possible.

• Hannah Dushkova

Trained as lawyer and mediator in the Ukraine and now living in Dundee Hannah is involved with many programmes seeking to ensure conflict resolution skills are spread amongst the refugee community in Scotland.



• Malcom Currie

Is a former trade union official and rugby referee whose mediation practice is centred around promoting better resolution in the workplace. He also delivers international training programmes on dispute resolution.



• Patrick Scott

Qualified as a mediator in South Africa where he was an advocate he has extensive experience of mediation and the courts. In Scotland Patrick has been Chair and a mediator with the Strathclyde Mediation Clinic.



SC CR Scottish Centre for Conflict Resolution | Cyrenians

MEDIATOR AND MEDIATION SKILLS TRAINING

The proceeds of this training will contribute to the work of Cyrenians, helping to reduce family conflict and relationship breakdown, while supporting best practice in mediation, conflict resolution and early intervention.

The Mediator and Mediation Skills Training is delivered over 5 days. As this training is newly developed, it is fully up-to-date with current mediation and conflict resolution theory and practice and is accredited by Scottish Mediation.

Course Training Dates: Monday 8th, Wednesday 10th, Wednesday 17th, Wednesday 24th and Wednesday 31st January 2024. You must be able to attend all dates to participate in the course.

Venue: Norton Park Conference Centre, 57 Albion Road, Edinburgh, EH7 5QY

The cost of 5-days training: 1 half-day (online), 3 full days (in person) plus 1 assessment day (in person), accredited by Scottish Mediation to increase individual's knowledge and skills of mediation, is as follows:


£1,200 (plus VAT) for business/professionals

£1,000 (plus VAT) voluntary sector/students

"I think the skills-sharing was of particular value as a really great way to learn to modulate your approach in real time and feel the emotions of disagreements and try to move through them."

For more information, please email Cyrenians SCCR: sccr@cyrenians.scot

 www.scottishconflictresolution.org.uk

 www.cyrenians.scot

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Scottish Mediation News

Practice Standards and New Registrations 2023

Thinking of joining the Scottish Mediation Register? You can become a member or registered practitioner. Attend this free online seminar to find out more about registration. What is required to be a registered mediator and what are the required standards. Find out about the many benefits and opportunities for sharing practice and learning.

The hour-long seminar will consist of a 15 minute presentation, followed by an opportunity to ask questions.

The event will take place on Wednesday 15th February from 12 noon-1.00pm. Zoom link to be sent out nearer the time.

To book this event please click [HERE](#)

Welcome to Scottish Mediation

Scottish Mediation are delighted to welcome Dean Armstrong, Elizabeth McCombe, Irene Murray, Patsie Neilsen, and Githa Overton who join as practitioner members.

Elise Schwarz, Gillian Wheeler, Erni Whitaker, Albert Tam, Isabella ansanelli, Maartje Mensink, Setareh Dashte Bozorgy, Urenna Adegbotolu, Elon Eps and Fiona Geddes join as individual members.

This Online Continuing Professional Development (CPD) Course will be conducted over a half-day. Suitable for all mediators in the workplace, civil & commercial, medical, family or community sectors.

Topics Covered

This online course will introduce participants to the concept of ethics related to professional practice. It will explore many of the critical issues pertaining to ethics and mediation, including:

1. Ethics in the context of mediation
2. The difference between ethics and compliance
3. Developing a plan for managing ethical issues in mediation
4. How do your personal beliefs impact your mediation work

Ethics and the Mediator CPD



Online Friday 22nd March 2024 1-5 PM

The course will be led by Tony Buon

Cost: £47.50 including VAT. You will receive handouts, PPT slides and a certificate. Book now to secure your place at Eventbrite
https://bit.ly/MED_ETHICS

