

Mediation Matters!

The quarterly newsletter of the
University of Strathclyde Mediation Clinic

Inside this issue

Editorial	2
From the Chair.....	3
Clinic News	4
<i>An antipodean story</i> by Ruth Chapman	6
<i>Observations of a 'mature' student</i> by Gordon Murray	8
<i>Patrick's Ponderings</i> by Patrick Scott	10
<i>Research Conversations - Sophie Revesz and Adrienne Watson</i>	12
<i>In mediation we trust? A student's first brush with ethics in mediation</i> by Bronwyn Sutton	14
<i>An ethical dilemma</i> by Patrick Scott	15
<i>Aunt Minerva's Agony Column</i> by Alastair Sharp.....	17
<i>The Mediator's Toolkit: Formulating and asking questions for successful outcomes</i> by Gerry O'Sullivan Book Review by Gordon McKinlay.....	19

Editor: Patrick Scott

Assistant Editor: Adrienne Watson


University of
Strathclyde
Glasgow

**4th Annual Mediation
Clinic Conference 2024**
(ONLINE)
Thursday 21 March 2024

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Editorial



The festive season is behind us, and we now brace ourselves against the winter storms, which seem to be more prevalent this year than in the past. We have already reached Storm Jocelyn and it is only January.

This issue of *Mediation Matters!* contains the usual contributions, with the exception of *From the Director*. Unfortunately, Charlie Irvine has been ill with Covid and has not been able to pen his contribution for this issue. In *From the Chair*, Alastair Sharp discusses the role of the Clinic in promoting mediation in Scotland and reminds us of the Mediation Clinic Conference, which will be online, on the 21st March. In *Clinic News*, Pauline McKay provides an update on the International Mediation Clinic Network and welcomes Rosie McBride as the Clinic's new Service Delivery Administrator.

In *An antipodean story*, we have an insight into mediation in New Zealand from Ruth Chapman, from Dunedin Community Mediation. Gordon Murray's *Observations of a 'mature' student* reflects on the change in mindset required when transitioning from a solicitor to a mediator, and the transformation from an evaluative to a transformative approach.

In *Patrick's Ponderings* I reflect on a couple of difficult customers, and I have also written an article on *An Ethical Dilemma*, dealing with mediating in the shadow of illegality. Adrienne Watson interviews Sophie Revesz on her dissertation entitled *Balancing Power? Decision-making and control in Workplace Mediation*, whilst Bronwyn Sutton shares a case study entitled *In Mediation We Trust? A student's first brush with ethics in mediation*.

Aunt Minerva tackles a new query from 'Concerned' of GlenSporran and Gordon McKinlay reviews *The Mediator's Toolkit by Gerry O'Sullivan*.

Happy reading, keep warm and stay safe.

Patrick Scott
Editor

From the Chair



On behalf of your Board A very Happy New Year to you and yours!

It seems only a short time since we were wishing you all a similar greeting for 2023. Perhaps it is as so much has happened to the Clinic over the last twelve months that the time has flown by. We must headline the fact

that much work has been carried out on our strategic development and that we have expanded and are continuing to expand on all fronts. We are moving our service into a number of new Sheriffdoms and seeking further funding from the Government. Our record of successes continues, although it must be said that concluded settlements are not the only measure of achievement. Often a 'failed' mediation results in a settlement further down the line before the final proof hearing, very often as a result of the parties reflecting on what occurred at the mediation. It is not easy to keep track of such cases, but they are not infrequent.

We can all feel proud of being part of an organisation that is spearheading mediation in Scotland. We, together with Scottish Mediation and other similar organisations, are part of the hopefully unstoppable wave of realisation that Mediation not only Matters but does actually Work to the benefit of not only its immediate participants but also the State generally. This of course means that it is in the State's interest to continue to fund it. It can be a stormy sea on occasion with bureaucratic detritus in the depths, but with our stalwarts Pauline and Rosie (welcome to the Clinic, Rosie) in the engine room and Charlie on the Bridge and with an enthusiastic Board Room (perhaps Ward Room to continue the metaphor) behind him there is every reason to believe we can continue our voyage of success.

And what a Board Room. Much has changed over the year, and we have five new members we are very happy to welcome on board. Oyinkro, Eunice and Andrew are quite old stagers now and where that leaves Lynn, Tom, Andrew and myself I shudder to think. Our new members bring a wide range of experience with them from as far away as the United Nations to those more local. Welcome to Alan, Alison, Bronwyn, Gordon and James, who have already started making their useful contributions, and in particular to Bronwyn who has volunteered to take on the

onerous task of Secretary. I hope you all will continue to enjoy your new(ish now) roles with the Clinic.

A couple of matters I must however mention before letting you get on with the meat of Patrick's industriously and excellently produced newsletter. Thank you, Patrick, for your continued efforts 'doon the watter' (Patrick is an Arran dweller).

Firstly, the Scottish Legal Awards which we were so successful in winning again last year. However, we must not rest on our laurels, and we are already planning this year's entry and Pauline is already chasing contributions. Let's see if we can make it another trophy to take home on behalf of the Clinic and all who are part of it.

Secondly, the Mediation Clinic Conference on the 21st March – not all that far away. It will be fully online this year which from one point of view is a pity, but logistics seemed to dictate that format. You will all be pleased to hear, however, that it promises to be a great success with the effervescent Vanessa Collingridge agreeing to host the discussion panel again and the keynote speaker, Deborah Thompson Eisenberg, being the Vice-Dean at the University of Maryland, where she is Faculty Director of the Dispute Resolution Programme. Workshops and other details will be announced shortly. We look forward to seeing you there.

In the meantime, Happy Mediating!

Alastair Sharp¹
Co-Chair

¹ ***Alastair Sharp is a former English Judge and has been a fully accredited CEDR Mediator since 2002. He completed the LLM in Mediation and Conflict Resolution at the University of Strathclyde in 2015. He is a member of Scottish Mediation and the Founder and Principal of ASMediation, which is based in the North-East of Scotland, with his practice extending throughout the country and with a base in London at Lamb Chambers in the Temple.***

Clinic News



We are now back in the office, and it feels like we have never been away! We've had many referrals, intake calls and intake training.

A warm welcome to Rosie McBrine, our new Service Delivery

Administrator, joining us to support the expansion of our services across Scotland. Rosie is an alumna of Strathclyde (Social Policy) and is a fantastic addition to the team. Rosie is the main point of contact and, as well as arranging mediation sessions, she is also working on a revamp of our website. We are normally on campus Monday – Wednesday so please do drop by (Room GH841) and say hello if you get the opportunity.



Rosie McBrine
Service Delivery Administrator

We are excited to expand our mediation service to 35 Simple Procedure Courts across Scotland and work is already underway in promoting the service across the new and existing Sheriffdoms. Meetings with the Sheriffs Principal have been incredibly positive. We also look forward to collaborating with the new courts; and with the external Higher Education institutions across Scotland, whilst providing opportunities for students.

We have several Peer Support Sessions organised over the next few months. These are a great opportunity to talk through a tricky case and share ideas. Clinic members are encouraged to attend at least one session throughout the year. Sign-up links have been sent to members.

On the 5th December, we held our third meeting of the International Mediation Clinic Network on Zoom. We had two speakers sharing their experiences of participating in and running mediation clinics in their institutions. Many thanks to Maciej Domagalski, a student from the

University of Lodz in Poland and Professor Jane Bryan from the University of Warwick. Participants included delegates from Palestine, Australia, India, Poland and Ireland. The recording can be found on the [Mediation Clinic YouTube Channel](#).

We would like to say a big thank you to Megan Sharp who undertook a work placement with the Clinic as part of her LLB Scots Law course. Megan worked in the Clinic for one day a week throughout Semester 1. We are grateful for her contribution and look forward to having her volunteer with us in the future.

Thank you also to our Postgraduate volunteers assisting us with the intake process. We can provide training for Undergraduate and Postgraduate students to assist with this process. Our training is ongoing, and any Clinic members who are interested in assisting should contact mediationclinic@strath.ac.uk.

We are also gearing up for the next online Clinic Conference on Thursday 21st March 2024, with [Deborah Eisenberg](#) confirmed as keynote speaker. We will be looking for volunteers to assist with the online event during the day. If any Clinic members would like to be involved, again, please get in touch. We'd love to have you with us.

Pauline McKay¹
Co-ordinator, Mediation Clinic

¹ **Pauline McKay completed the PG Certificate in Mediation and Conflict Resolution course at the University of Strathclyde in 2020. She is currently an Accredited Mediator with Scottish Mediation, the Clinic Co-ordinator of Strathclyde Mediation Clinic and volunteers as a lead mediator with the Clinic, Lothian and Borders Mediation Service and other community organisations.**



University of
Strathclyde
Glasgow

4th Annual Mediation Clinic Conference 2024 (ONLINE)

Thursday 21 March 2024

**“Learning through Practice:
Mediation Clinics and Mediator Education”**

We are delighted to welcome our Keynote Speaker **Prof Deborah Elsenberg**, University of Maryland, speaking on “Mediation Clinics and Clinical, Legal Education.” Workshops from **Prof Bryan Clark**, Newcastle University, **Toby Treem GuerIn**, University of Maryland, and **Robyn Weinstein**, Cardozo Law, New York, and others. A panel discussion will be facilitated by **Vanessa Collingridge**.

Tickets and Registration

Click link or scan QR CODE to purchase tickets from the University Online Shop.

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More details and ticket information can be found on our [Conference Page](#).

Participants attending online all day will receive 5 CPD points.



An antipodean story

By Ruth Chapman¹



I belong to Dunedin Community Mediation in Aotearoa New Zealand and, having read about the Mediation Clinic at Strathclyde, I asked if I could receive your newsletter. The request in return was to submit an article about our tiny

organisation at the opposite end of the earth. Here it is.

Dunedin is sometimes known as the ‘Edinburgh of the South’ and has strong Scottish connections. We are a city of around 130,000 people and are home to the University of Otago. Our mediation service began as an idea from the University’s National Centre for Peace and Conflict Studies. The Centre is no longer directly involved but without its initiative we would not have Dunedin Community Mediation today. The original broad idea was developed by a group of ‘peacemakers’ with varied backgrounds and launched in 2014.

In those first discussions we made some key decisions. We would not compete for work with mediators in professional practice. We would be a free service, providing access to mediation for those who would otherwise not be able to afford it. We would use a co-mediation model.

Nearly 10 years on we have not changed any of those foundational decisions. Offering a free service has indeed removed barriers to access. It has also enabled mediation where one person might have been willing to pay but the other was not. Co-mediation – and I speak as a recovering sole practitioner – has had a range of benefits. It has reduced the professional loneliness the sole practitioner can experience. It allows us to take inexperienced mediators and pair them with the experienced. It exposes us all to differing mediation styles, which is professionally enriching. It models co-operation. It provides peer supervision, and it helps us to monitor the quality of our service.

All our mediators are volunteers. We had planned to pay them, in recognition of their professional expertise, so that is the one early decision we have changed. It came

about because we struggled to obtain funding and so we could not afford to pay them. That necessity has become a strength for our small organisation. It reduces operational complexity. It means that the mediators can spend as long as is needed on a mediation because there are no cost ramifications. It does also mean that we cannot overtax our mediators so most will do no more than three mediations in a year. Mediators can step back if life requires it and rejoin us when they are ready. It often helps that mediation participants know that the mediators are doing this as a goodwill activity, for the love of helping others to achieve peaceful outcomes.

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We have no shortage of volunteer mediators – we have 15 at present – and new people approach us on a regular basis. Some are experienced mediators who are giving back. More come with training but little or no experience. We know that the hardest thing for a newly qualified mediator is to get their first real-life mediation. (I get the thrill over and over of seeing new mediators ‘go live’.) While our mediators are not paid, they value the training and experience they receive, regardless of their own experience and background. Providing the opportunity for that is one way we can assist the mediation community in general.

We have been very fortunate that our local Polytechnic has begun to offer a graduate diploma in conflict resolution. Our close relationship is mutually beneficial: we have been able to access short-course modules for our mediators, and hopefully we will offer students the opportunity to shadow a live mediation as part of their study programme.

One of our lovely surprises is the extent to which our mediators have become extended family – we use the Māori language word *whānau* in Aotearoa New Zealand.

Working together, sharing ongoing professional development training and peer supervision with a common goal of building a peaceful community is a powerful and joyous experience.

In the last couple of years, we have also offered a conflict-coaching service. In situations where mediation is not appropriate or not possible, mediators who are also trained coaches can work with a person to help them improve their skills in conflict situations. Those in the coaching group meet more regularly to share approaches and models we can use in our coaching.

Early in our work we identified the values we wanted to embody as Dunedin Community Mediation. They are inclusiveness, empowerment, accessibility, building a peaceful community and aroha (which means extending empathy, love, compassion, concern and care). We aim to live out these values with the members of our organisation and with all those who come to us for assistance.

Our mediation participants come to us with a variety of issues needing resolution. Family conflict is a common issue, whether it is intergenerational conflict, sibling issues or separating parents. Neighbour disputes, groups experiencing difficulties, and colleagues having difficulty working together are the other main areas. We have no official or automatic referral sources and those seeking to use our service come via local organisations, lawyers, word of mouth, our pamphlet and the website. Some enquiries are resolved – or referred on – during the initial conversation. Sometimes finding a person to listen is all that was needed. If our involvement is chosen, mediators or coaches are assigned, and the mediation journey continues for as long as it is needed.

...the values we wanted to embody ... are inclusiveness, empowerment, accessibility, building a peaceful community and aroha (which means extending empathy, love, compassion, concern and care).

We also try, when time and resources permit, to run training workshops, as part of our ancillary purpose of providing training and education to the community about mediation and peaceful conflict resolution and its benefits.

We are a charitable trust, with some of our trustees involved since inception. We are a 'virtual organisation'

with no physical premises. We have a pamphlet, a website, a Zoom account and a free phone number. We are fortunate to have access to affordable rooms in a community facility and we offer mediation in person and online. Our manager is employed for eight hours per week to deal with intake, some promotion and administration – and much else! I have the role of Mediator Co-ordinator, which means that I support new mediators, assist with assigning mediators to cases and lead the training and professional supervision aspects of our work. All our members – trustees, mediators and manager – work together in a truly co-operative way to develop policy and improve our service.

We believe that we are now the only community mediation service in New Zealand, and we are quietly proud to find ourselves entering our 10th year with a solid foundation and in good heart. Of course, we face challenges. While our budget is small, so are the funding sources. We need money to pay our manager, to provide training support for our mediators, to hire facilities for mediation and coaching activities. With our limited resources we have tried not to get ahead of ourselves, to make sure we are doing what we do well, and to balance publicity for our service with our ability to deliver it. In 2024, as we celebrate our 10th anniversary, we will use the milestone to identify some new goals including improving systems for evaluating our services, but those original core values will remain. We look forward to seeing what arises in the next 10 years of mediation services!

Please get in touch if you want to know more about our small organisation at the bottom of the world!

dunedincommunitymediation.org.nz

¹ **Ruth Chapman is a founding member, current trustee and Mediator Co-ordinator of Dunedin Community Mediation. She has a background in education and unions and, in 'middle age' trained as a mediator. Ten rewarding years as mediator at the University of Otago, Aotearoa New Zealand focused mostly on assisting staff to repair working relationships, and students and supervisors to work better together. Now retired from paid work she continues to participate in the joy of mediating, as well as educating and helping to grow peaceful communities in Otepoti Dunedin.**

Observations of a 'mature' student

By Gordon Murray¹



When Patrick asked me to pull together some thoughts on my journey so far into the world of mediation, my initial reaction was to ask "how many words" having been somewhat fixated on word count when it comes to writing essays. Having been reassured

that a work of high literary merit was not what was called for, I happily agreed. I also have to acknowledge that I'm barely halfway through the academic course and hence my views will be somewhat unformed and random and may well cause me significant embarrassment later in the year.

Having retired from private practice as a solicitor in 2022, I wanted to get my teeth into a different challenge, so here I am looking at serving a new apprenticeship to qualify as a mediator. I completed my legal apprenticeship in 1978 and spent my career drafting contracts involving residential and commercial conveyancing, leasing, funding, partnerships and all sorts of work for small family businesses and charities. Due to that training, I instinctively looked for the solution to solve the problem being addressed. Having absorbed the different approach mediation presents, I have found myself in the various role play situations which occur throughout the course having to consciously hold back from telling people what to do. That is not to say that my proposed solution is necessarily the best one or in fact even workable but old habits will die hard.

My viewpoint is obviously from a legal background and my fellow students all have different skill sets and approaches, bringing their own individual experiences into play. There isn't a 'one size fits all' mentality and ultimately it will come back to the chemistry that an individual can bring to bear in any form of mediation or negotiation to encourage parties to step back a little from the confrontation coalface and attempt to at least consider a different perspective. I can see myself falling into the 'activist facilitator' camp because I doubt that I'll be able to completely resist getting involved with

exploring ideas, but I'm going to have to curb a knee-jerk reaction to solve the problem unilaterally.

Mediation was not an identified skill that was prevalent in my early training. That said, the variety of work undertaken by an apprentice and newly qualified lawyer then was really quite varied. Much has changed as specialisms now appear to be pursued almost immediately after qualification. For my part, something has been lost by not having that general base, with larger firms now fielding teams of lawyers to cover what in the past would have fallen comfortably under one person's experience and knowledge. One of my peer group with huge experience in hospitality, recently moved from a smallish firm to a large practice - he was dealing with the sale of a hotel and had to fend off teams from the licensing unit, the leasing unit, the employment unit and others, all eager to get the clock running for their monthly feeing targets. He was able to reassure them that he was more than capable of doing what was necessary for which there was, finally, a grudging acceptance.

I can see myself falling into the 'activist facilitator' camp because I doubt that I'll be able to completely resist getting involved with exploring ideas, but I'm going to have to curb a knee-jerk reaction to solve the problem unilaterally.

This breadth of experience exposed me to all types of clients and I suspect mediation clients will be just as diverse. I was never a litigator and always took the view that if one of my clients ended up going to court, it was more likely to be a fault in the drafting of the initial contract. That said, things do go wrong, and you would always hope that your client would discuss it with their opposite number in a manner to achieve an acceptable position for both parties. Sadly, the justice system is proving clunkier than ever with significant delays in getting cases dealt with and costs of using lawyers becoming prohibitively expensive for pursuing what are substantial sums of money. From my studies so far, there is a clear need for an alternative approach if

nothing else, to have each party 'grasp the nettle' of the individual issue, talk it through face to face, and deal with it.

One thing that has surprised me is how much of the academic literature dates from the 20th century. While undoubtedly certain specific areas of research such as neuroscience have blossomed in the last 20 years, much of the theory of mediation appears to be well settled and unchallenged. That is not to argue that current research isn't valid because ultimately everything moves forward and changes all the time - nothing stands still. Much of the more recent literature, however, seems to be concentrated on how you do the job rather than the thinking behind doing the job. That's understandable but I would really like to see much more research done on actual mediations rather than on study groups in experimental situations. I do accept the former research might be difficult to pull together but it will, in my view, have much greater validity. I suspect however, my views may well change in Semester 2 when the mysteries of employment mediation will be revealed plus, in my case, a refresher in construction law.

On a practical point, I'm not convinced that the merits and advantages of mediation are being presented and sold to the public as well as they could be. There should be greater concentration on promoting and selling those benefits, both for well-being and financial reasons. Perhaps there is evidence that the concept of mediation is well known to the public, but I haven't seen any. I understand that mediation is being taught as part of law degrees but that's fairly specific and somewhat exclusive. It would be far better for this to be built into the syllabus in secondary schools so that the merits of mediation and indeed the importance of better communication as a life skill becomes part of a natural skill set.

I fear I have somewhat strayed from Patrick's original remit but the whole point of being a student is that you get the opportunity of sounding off and making sweeping and grandiose statements without being too burdened with the knowledge that the academic and practising mediator community can bring to bear. That said, it's been an interesting ride so far and I'm looking forward to Semester 2 and the looming Dissertation...

¹ ***Gordon Murray is at present completing his LLM in Mediation and Conflict Resolution at the University of Strathclyde. He is a retired solicitor. Gordon was a partner in the Firm of W&J Burness from 1982 to 1999. He started his own legal practice Murrays WS that merged with Snell & Co in 2008 and thereafter became part of MacRoberts in 2019.***

Patrick's Ponderings by Patrick Scott¹

Some difficult customers



Most parties respond positively to an invitation to mediate. However, occasionally you get a difficult customer. Here are a couple of examples.

After receiving a referral from the Court, I emailed a claimant, introducing myself and explaining a little about

the process and what we would be doing going forward. I received the following response:

"This conversation concerns an incident that happened to me a few months back, when Mr. K, in my view, deliberately rode his motor bike into the side of my car. To try and resolve the issue, I had repairs done more cheaply than necessary, for under £200, and sent Mr. K letters, invoices and requests for payment. Mr. K ignored the letters and did as I first expected he would, namely, claim for injuries.

As to trying to mediate on the matter. In my opinion, this would be aiding and abetting breaking the law, and so I will have nothing to do with it."

After mulling on the matter a while longer, he decided that he had not said enough and added the following:

"I apologise for writing again, but I am so mad that the justice system is further prolonging and wriggling out of this case. After Mr. K ran into me, I had no idea whether it was 'cash for crash' or road rage. To try and deal with it myself, I went to a body repair shop where, very fortuitously for Mr. K, I was already booked in for other work on my car. I explained the situation to the examiner who said that really, they should replace the bumper, which would have added hundreds to the bill, but to mitigate the cost, I said, no, just do your best with what we have. On top of that, I confirmed that there was enough paint from the repair already booked to do the damage caused by Mr. K. Hence the tiny bill of £150 that I sent him.

To suggest I take part in some sort of mediation - which I take to mean meeting half way, so what, settle for £75 ???.....is absolutely not on. As I said yesterday, I believe that this could be a criminal act on behalf of Mr. K and for the justice system to suggest I help him carry out this scam is beyond belief. No.....excuse me.....in today's world, it is quite believable."

I thought that I needed to try and address the concerns of this claimant, so I sent him the following email:

"From your second email I can see that you don't have much of an idea of mediation. It is for that very reason that I request parties to have a pre-mediation meeting with me. I am still willing to do that but, if you don't want to, I can refer the matter back to the Sheriff and advise that you don't wish to mediate."

Confirming my view that this claimant had very little knowledge of mediation, he responded with the following:

"My idea of mediation is the attempt to find middle ground between two or more views in a dispute. I absolutely low-balled my financial claim from the start, and unless Mr K is prepared to admit verbally or in writing to his misdeeds on top of paying my out of pocket expenses, I see no point in pre-mediation or mediation.

If a court case is to be brought against Mr K, I am willing to give evidence."

It is clear from the above exchange that this claimant has a skewed idea of mediation. He is not the first person to have this idea. However, most parties are willing to attend a pre-mediation meeting and afford me the opportunity of explaining the process to them. I have had mediations where the respondent has conceded the claim and others where the claimant has abandoned the claim. Mediation is not just about compromise. Many matters result in a compromise but that is not the only resolution. I usually encourage parties to meet with me, even if they express reluctance to mediate. However, this claimant was quite abrasive, and I decided that I was not going to waste my time trying to persuade him otherwise. Looking at the facts as outlined by him, there is probably a reasonable possibility that the respondent may have offered to settle the claim in full. That would have saved him two attendances at Court. He will have to attend a case management discussion and the hearing. But if that is what he wants, so be it.

Which brings me to a similar matter that arose about a week after the above exchange. I sent an introductory email to a claimant and received the following response:

"I'm fine to go through with the initial process of mediation, however within the first meeting with yourself I would be asking why? However, I'm assuming most people in this situation have the same questions as I feel I have already attempted to mediate with the company but they have failed to take part."

This is a slightly more open-minded response. I assured this claimant that we would discuss this at the pre-mediation meeting. At the meeting, the claimant told me that he had already engaged in mediation and that it was unsuccessful. I asked what he had done to try and resolve the matter. *"I sent the respondent a number of emails and he never responded to them". "That is not mediation",* I said. He insisted that it was. I did not want to get drawn into this debate, so I told him that I was not going to try and persuade him to mediate. *"Just tell me whether or not you want to mediate",* I said. *"If you don't, I will refer the matter back to the Court. Just tell me so that we don't waste each other's time".* His attitude changed and we had a useful pre-mediation discussion. He agreed to mediate and, during the mediation, the respondent made an offer which was attractive to the claimant but, after discussing it with his wife, it was declined.

My experience with mediation has taught me that most people have an idea of what mediation is about, but many of them don't know enough to be able to make an informed decision about whether or not they should mediate. It is, therefore, important to arrange a pre-mediation meeting to deal with misperceptions and have the opportunity of addressing a party's concerns.

¹ ***Patrick Scott completed the LLM in Mediation and Conflict Resolution course at Strathclyde University in 2018 and was awarded an LLM in Mediation and Conflict Resolution with Distinction. He is currently an Accredited Mediator with Scottish Mediation, serves on the SLCC Panel of Mediators and volunteers as a lead mediator with Strathclyde Mediation Clinic. He is also on the Board of Trustees of Scottish Mediation.***

Research conversations....

Sophie Revesz¹ discusses her MSc dissertation with Adrienne Watson²



This series of interviews looks at some of the research our students and established academics have undertaken. We will be discussing the lessons that have been learnt, the impacts of the research and recommendations for those who are yet to undertake their dissertations.

This month, Sophie Revesz is interviewed by Adrienne Watson. Sophie completed her MSc dissertation, *Balancing Power? Decision-making and control in Workplace Mediation* in 2020.

Balancing Power? Decision-making and control in workplace mediation

Key findings:

In workplace disputes, it seems obvious that managers have more power than junior employees during mediation. This research discovered that in many cases the more junior employees are seen to have more power than their managers.

What brought you to the Mediation and Conflict Resolution MSc course at Strathclyde?

Before I started the course at Strathclyde, I was managing a language school which was a very demanding, stressful post. It had been a long time since I had focused on my own learning and development so I wanted to return to study.

I left my job and started the part-time course at Strathclyde. I was thinking about a career in HR. I thought the course would be perfect as mediation is such a useful, transferable skill, particularly in HR, but also in any management position.

I did some research into different mediation programmes and came across the Strathclyde course. It was local, had a part-time option and, importantly for me, it was mostly face-to-face learning. The Mediation Clinic was a huge bonus - the other courses I looked at didn't provide the opportunity to practice actual mediation with real parties and disputes. Being attached to the Law School gave the course a degree of credibility and it just sounded great!

Face-to-face learning was important to you, how did online learning during the pandemic affect you?

I started the course in 2019, so by the time the pandemic started I already knew Charlie and a lot of the people on the course, so it didn't feel quite so remote by that stage.

What has your involvement with the Mediation Clinic been?

In my first year, I attended the Clinic's AGM and Charlie said they were looking for new members so, as an eager student, my hand went up and I joined the Board. I became Secretary, which involved taking minutes and lots of admin support. I was also involved in planning the Clinic's first mediation conference which was online. I really enjoyed being involved and understanding how they were hoping to develop the Clinic and expand it to different courts in Scotland.

I was also an assistant mediator with the Clinic and did about 20 mediations. Initially, some were in-person in Paisley and Falkirk. Separately, I did some mediations with the Edinburgh Sheriff Court. I didn't go on to become a lead mediator which, I think, was a confidence issue on my part. However, I did feel a sense of progression as, over time, I started to proactively help the lead mediators.

How has the course helped in your future career?

In my HR role, I am better at seeing situations developing and nipping them in the bud in a way which is focused on the parties.

When did you start planning your dissertation and how did you decide on your area of research?

During the course, I was also studying for HR qualifications with the Chartered Institute of Personnel and Development. I was struck by how the principles of mediation could be applied in a workplace context where

I perceived there was such an obvious power imbalance between the parties. The relationships are complicated by the rights and responsibilities of people in a workplace situation. If I was going to work as either a mediator or in HR, I needed to understand how the process works in practice. So, it was a personal interest that led me to the dissertation subject.

What research methods did you use?

I started with a literature review, reading a lot about power in mediation, and workplace mediation specifically. Then I planned to observe some workplace mediations followed by interviews with the parties.

Did you encounter any particular challenges and, if so, how did you overcome them?

I found the literature review quite tough because so much has been written about workplace mediation and power specifically. It was quite hard to drill down to what was relevant and to filter out literature that was leading me down rabbit holes. Filtering the literature was essential to ensuring that I was focused on the most relevant work.

Also, it quickly became apparent that interviewing parties would be very difficult to organise. The mediators felt a professional responsibility to the parties and didn't want a stranger coming in, observing, taking notes and asking potentially intrusive questions. I pivoted to interviewing mediators. I approached mediators through the Clinic and the Scottish Mediation Register and they were all very helpful and spent a long time speaking to me.

What did you learn from the interviews?

Interviewing was a new skill to me and initially I just took the interviewees' answers at face value. As I did more interviews, I began probing the mediators' answers a bit more and trying to understand them in more depth.

When you're doing a dissertation, it can feel very abstract and theoretical. So, when some of the mediators were able to refer to specific mediation cases which illustrated what they were talking about, it was really helpful.

The interviews were definitely the most rewarding part of the dissertation, and when speaking to mediators I could see how the theory was being applied to real cases.

In terms of what I learnt, the key findings related to the assumed balance of power in workplace mediation. I discovered that the assumptions I had made about power and workplace mediation were absolute rubbish. Most of the interviewees said that the most powerful person in the

dispute was the junior employee. Their sources of power included the legal protections for employees and their ability to disrupt. Often managers were quite insecure in their own power and position, so were perhaps more focused on saving face. Junior employees were less concerned with those aspects, so had a bit more freedom.

The mediators talked about the different techniques they used to address the power imbalances. They each seemed to use very different techniques. During the pre-mediation meetings the mediators helped the parties to think about what they wanted to achieve by exploring interests and positions, thinking about what a good outcome would look like and explicitly discussing power differentials with them. I think the real challenge was to get the managers to approach the junior employee as an equal.

If you were to do your dissertation now, would you change anything about it?

I would be more persistent in trying to secure interviews with parties, in addition to mediators. I think that would have made for a more interesting range of perspectives on power in workplace mediation.

What advice would you give to students who will be working on their dissertations this year?

Once you've chosen a topic, start reading early, start taking notes early and start writing down references early. Then, when you start writing up your dissertation, you will have everything you need. Students should also be prepared to go where the research takes them, learn as you go along and adjust your research as needed.

I would also advise students to enjoy their dissertation!

¹ **Sophie Revesz completed the MSc in Mediation and Conflict Resolution course at Strathclyde University in 2020 and was awarded an MSc in Mediation and Conflict Resolution with Distinction. She is now Admin and HR Manager with the Edinburgh-based charity, The Welcoming www.thewelcoming.org**

² **Adrienne Watson became an Accredited Mediator in 2016. She recently completed the MSc in Mediation and Conflict Resolution at the University of Strathclyde. Adrienne volunteers as a mediator with Strathclyde Mediation Clinic and is Assistant Editor of the Mediation Matters! newsletter.**

In mediation we trust? A student's first brush with ethics in mediation

By Bronwyn Sutton¹



As a mediator-in-training, my first exposure to a material power imbalance between mediating parties was unsettling. The crux of the dispute was repayment of an informal loan between friends after their long friendship had soured. Due to

challenges in contacting the respondent, the dispute had been back and forth between the Clinic and the sheriff court several times before a mediation was finally scheduled.

In the days before the mediation, the respondent sent a rambling email to the lead mediator. The email implied fraud by the claimant, described threats from the claimant's husband in relation to the money owed and mentioned the respondent and her children not feeling safe. The lead mediator and I discussed these flags prior to joining the session. I wondered, if one of the parties did not feel safe, should the mediation go ahead? The lead mediator made several well-reasoned points that helped me get comfortable with proceeding:

1. Without hearing from the claimant, we could not get a sense of whether the accusations were founded. It was also possible that the claimant would make similar claims against the respondent.
2. If it emerged that the respondent was indeed afraid, what other options were available to her to resolve the matter? If mediating was not feasible, and the court dismissed the basis of the informal loan, then the respondent could be left facing a form of street justice determined by the claimant.

These points and further considerations are expanded upon in Chapter 4 of Ellen Waldman's book, *Mediation Ethics*, which I am now grateful to have on my bookshelf and would recommend to all students of mediation.

During the mediation, the claimant's manner was confident and at times spiteful. She made frequent accusations against the respondent, who remained subdued throughout. When prompted in caucus, the respondent shared documents onscreen that showed that the claimant's accusations were baseless. The respondent said she wanted the claimant 'off her back.'

In due course, a settlement amount was agreed. At the point of finalising details of a repayment plan, further information emerged indicating that the respondent was in quite a vulnerable position. The extent of power imbalance became

more apparent. However, given that power is rarely distributed evenly between parties and often shifts throughout the session, how much imbalance is too much? Ellen Waldman says, "*When faced with these imperfectly matched negotiating partners, mediators must decide if the risks of going forward are outweighed by the possible benefits.*"²

In this instance, the respondent had emphasised that she wanted a resolution. The mediation process made this possible on terms that she could live with.

By the end of the mediation, my own thinking had shifted from wondering how we could acknowledge the claimant's apparent pain at the friendship breakdown to thinking that the respondent was better off having the claimant out of her life.

This mediation reinforced for me the immense value that the Clinic offers, in the opportunity for students to witness first-hand experienced mediators navigating the pricklier aspects of disputes.

How can I be better equipped for such dilemmas in future? And what options are available to a junior mediator if faced with ethical questions in the moment?

- Absorb case studies involving ethics and associated commentary, acknowledging that there is rarely one appropriate response. Ellen Waldman's book, *Mediation Ethics*, illustrates that even the most experienced mediators differ in their views of how to respond to ethical dilemmas.
- Consider further training, for example, [Ethics and the Mediator](#) CPD training being run on 22 March 2024.
- If concerns arise mid mediation, schedule a break and, with the parties in separate breakout rooms, discuss concerns with the other mediator.

¹ **Bronwyn Sutton is at present completing her LLM in Mediation and Conflict Resolution at the University of Strathclyde, after completing SACRO's community mediation course early in 2023. She has assisted in several mediations through Strathclyde Mediation Clinic. Her background is in renewable energy, and she aims to apply mediation in the context of the offshore wind industry.**

² Ellen Waldman, *Mediation Ethics* (Jossey-Bass 2011) 96.

An ethical dilemma!

By Patrick Scott¹



John and Anne had an agreement regarding the leasing and use of a car. Anne unexpectedly terminated the lease agreement and returned the vehicle, much to John's dismay. He had contributed a lot of money to the deposit and the monthly rental of the car

and, as a result of Anne's conduct, the car was repossessed, and he lost his money. John sued Anne for a refund of his contributions and Anne defended the action. The Sheriff referred the case to mediation.

The mediators went through the usual procedure of pre-mediation meetings, and commenced the mediation in a joint session. At the end of the opening session, and with the emotion in the room escalating, the mediators suggested private sessions. During a private session with Anne, it transpired that the agreement between the parties regarding joint use of the vehicle was unlawful. What do the mediators do about this? Should they continue with the mediation, adjourn it to consider their position or terminate it? Are they acting unethically if they continue with the mediation and assist the parties in getting to a resolution regarding the contributions made by John, or are they endorsing an unlawful situation? There are conflicting views on this, and I will set out some of them.

It is trite that mediators should not assist parties in the conclusion of a settlement agreement that is illegal or immoral. Omer Shapira¹ has the following to say in this regard:

Mediators' responsibilities are not only to the parties but also to the profession and the public. Mediators are responsible that the process of mediation not be abused and that its outcomes not harm important social interests such as the rule of law, the rules of critical morality, and the institution of mediation. Although the parties have a right to self-determination, they cannot legitimately expect mediators to assist them in concluding agreements that are illegal, immoral, or unconscionable. Self-determination as an ethical norm does not extend to such conduct. Moreover, the profession and the public expect mediators to prevent such mediation outcomes because mediators are perceived, at least partly, as responsible for outcomes that were

*reached in a process that they conducted, outcomes that they could have frustrated by terminating the process.*²

In the present example, however, the unlawfulness relates to the agreement giving rise to the claim and not the settlement agreement. Is there a difference?

In Ellen Waldman's *Mediation Ethics*, she discusses a mediation conducted by Julie Macfarlane.³

In summary, the scenario in that mediation was the following:

Two parties entered into a loan agreement, with the borrower using the money to fund a small business venture. The venture failed and the borrower could not afford to repay the loan. The lender sued in the small claims court and the matter was referred to mediation. At the end of the joint session, it transpired that the borrower's business venture involved the import and sale of illicit drugs. It appeared that the lender was aware of the illicit nature of the venture.

The mediator assisted in facilitating a settlement agreement between the parties. The ethical question which arose is should she have continued with the mediation, being aware that the debt repayment issue arose out of a failed drug deal. Waldman shares the views of three commentators on this question.

The first, John Bickerman⁴, opines that, whilst in the case of

*"some ethical issues, the line between ethical and unethical behavior can be fuzzy.....there can be no haziness over conduct that crosses the line into sanctioning, participating in, or hiding criminal behavior".*⁵

He is of the view that the mediator should not have continued with the mediation. Bickerman seems to labour under the impression, however, that the illicit drugs deal had not been discovered by the authorities. This is not correct, and it was the fact that it was uncovered, and the consignment confiscated, that gave rise to the debt not being able to be repaid. It is not clear to what extent this affected his conclusion.

The second commentator, Jeremy Lack⁶, expresses a different view. Whilst conceding that certain aspects of the mediation are dubious, he believes that, in circumstances such as this case, each mediator should rely on his or her own values and ethics. It is clear from

his comments that he distinguishes between the illegality of the transaction giving rise to the dispute, and the legality or illegality of the settlement agreement. His view is the following:

“The mere fact that a past crime was attempted should not prevent the mediator from helping the parties to resolve the matter of their perceived debt even if it is not legally enforceable. If both parties believe there is a debt to be repaid (even if it only a matter of honor among thieves), then their subjective perception of an ongoing dispute justifies their perceived need for a mediation and the need to resolve matters between them with respect to the future.

The question becomes ethically challenging only when the mediation itself may facilitate the commission of a crime.”⁷

The final commentator, Julie Macfarlane⁸, was actually the mediator in the case. Macfarlane states that her objective was to assist the parties in finding a lawful and non-violent solution to their dispute. She was satisfied that their proposals to resolve the dispute involved no illegal behaviour.

She draws the distinction between furthering illegal conduct and resolving the consequences of such activities. Mediators should trust their moral judgments. The one question raised by Macfarlane is, however, whether taking on a case such as this may affect the reputation of mediation in the eyes of the public.⁹ Even then, she believes that she was correct in continuing with the mediation. By mediating this dispute, the parties were being assisted in dealing with a failed transaction. Whilst the transaction was illegal, the settlement agreement was not. Macfarlane prioritised the interests of the parties above those of the profession, in circumstances that were not morally repugnant to her.

What is interesting from the above, is the different approaches adopted by the three commentators. What would you do? A CPD session will be held by the Clinic later in the year to discuss this issue. Details will follow in due course.

¹ Omer Shapira, *A Theory of Mediators' Ethics* (Cambridge University Press 2016).

² Ibid, 380-81.

³ Ellen Waldman, *Mediation Ethics* (Jossey-Bass 2011) 182. Julie Macfarlane is a Professor of Law, University of Windsor and Visiting Professor at Osgoode Hall Law School.

⁴ John Bickerman is an internationally recognised mediator, dealing with insurance and commercial disputes. He is based in Washington, DC.

⁵ Waldman, 183.

⁶ Jeremy Lack is a lawyer and mediator, practising in various countries, and specialising in international commercial disputes.

⁷ Waldman, 188.

⁸ Ibid, 191.

⁹ Ibid, 194.

Aunt Minerva's Agony Column

By her earthly intermediary Alastair Sharp¹

Minerva is the Roman Goddess of Wisdom and Just Causes. She has agreed to share her wisdom with members of the Clinic and answer queries as to unusual or interesting cases.

This is her response to a query from 'Concerned' of GlenSporran.

The names and some of the facts have been changed for confidentiality purposes.

TODAY'S PROBLEM

Dear Aunt Minerva

A Happy New Year Auntie, from which we are still recovering. An antiquarian dispute this time which has quite split the community and is due to be determined by old Sheriff MacDuffer shortly unless I can pour the balm of mediation on the troubled waters. Nobody wants 'The Old Duff', as they call him, to have to decide the case, including himself, as his reputed custom of consulting his 99 year old mother before passing judgment, and if she is in one of her reveries, tossing a coin, is not thought to be appropriate as the case has already attracted national interest.

Concerned, From GlenSporran

The Background

To understand the problem, it is necessary to give a brief history of part of the area. GlenSporran is at the head of a long sea loch in the Western Isles. There used to be a flourishing fishing industry at KinlochSporran in the 19th Century where fisherfolk could emerge from the shelter of the loch into the Hebridean seas to follow the silver darlings as they moved round the coast. At the mouth of the loch there used to be an Island called Rhona, where a religious settlement developed with its Abbey and community. Rhona is no more, as it was destroyed in a tsunami (not that they called it such then – it was said to have been destroyed by the Gods) and descended into the sea in the 12th Century. It was never seen again although it is said that on the occasion of a very rare low tide it rises again before sinking back into the depths.

When it was flourishing, the Abbey contained a reliquary known as the Stone of Parsimony, so called as it represented the guile of the community against the Viking Hordes, who used to regularly plunder and pillage unless the local communities paid the danegeld or ransom. A ceremonial seat on the Stone was awarded to the community that had managed to preserve the largest proportion of its treasures after each Viking raid.

Angus is one of the few remaining fishermen in KinlochSporran. His is a small vessel used for lobster fishing and diving for scallops and he would often, in his cups, regale the snug with tales of seeing the old Abbey Ruins on the ocean floor. One night after an exceptionally low tide he entered the snug and claimed that the Abbey had risen and that he had been able to dislodge a chunk of the Stone before the sea claimed its own again.

After several GlenSporran 12-year-olds, old MacTavish, the Curator of the KinlochSporran Museum of Antiquaries agreed that the Museum would purchase the rock for the sum of £5000. The museum under MacTavish had already built up an impressive array of historical items, including a golden bridle of a Kelpie and the full sealskin of a Selkie.

Shortly thereafter MacTavish retired and his successor McHard (from outside the area) was sceptical of the rock piece and had it examined and asserted that carbon dating disproved Angus' claim. He sought to recover the £5000 from Angus who told him, in no uncertain terms, that he should "go away". McHard, on behalf of the Trustees of the Museum, sued in the KinlochSporran Sheriff court and 'The Duff' transferred the case to Mediation.

The Questions

I have had preliminary meetings with both parties. They ask the following questions:

Angus

- Should he seek to interview Alec Salmon as he appears to have some experience of valuable pieces of stone of a similar nature?
- Should he seek to employ a professional diver to see if they can verify his claim as to the Abbey's continued existence. He has already tried a couple, but they won't go near the area as it is said to be cursed?
- He has heard that McHard left his previous job as an assistant curator at Peterhead Prison Museum under a cloud. Should he make inquiries of certain pals of his at the main jail to see what dirt can be dug up?
- He's always had his doubts as to the Selkie skin, but it brings custom to the museum. Can't McHard be tanked up in the snug and advised that it's in the area's best interest for him to drop the case as he's sure the Trustees would agree?

McHard

- He'd heard that Angus has been in trouble with the keepers on the GlenSporran Estate over poaching. He wants me to make inquiries to see if there's any truth in the story. Should I and if so, how?
- He believes Angus made a fraudulent sale knowing his rock was not part of the Stone of Parsimony. Should he inform the police?
- He told me that the examination of the stone was in fact carried out for a dram by a pal of his who is an undertaker and monumental mason, and he is not convinced his pal actually has the facility for carbon dating. Does this make any difference to his case?
- He is very keen to be accepted in the community having had a rough ride for various reasons at Peterhead and has recently started dating one of the Trustees' daughters. He is aware the Trustees are keen to avoid adverse publicity and wish to increase the footfall in the museum. Should this affect his approach to the case?

If readers have any other questions,
please direct them to:

*Aunt Minerva's Agony Column,
Mediation Matters!*

Answers

Angus

- A definite 'No'. He will be too busy preparing for his party 'Freedom' to take over Scotland and in any event would only hog the limelight if brought in.
- This might be worth pursuing if the case goes to full proof but not at this stage although an underwater camera on one of his next dives for scallops would do no harm. Beware of the curse however!
- Again a 'No'. It is not relevant. You are the one whose credibility is under attack. Interesting though this might be for the snug, remember this is a mediation where provocative revelations are seldom helpful.
- Hmm. Possibly some variation of this ploy might work but it must be emphasised that it could not be any part of the mediation. Perhaps the Trustee's daughter who he is dating could use her influence to make him realise that the existence of the stone in the museum can only be good for the area and indeed enhance his reputation.

McHard

- Certainly not. In any event it is not for you as a Mediator to get involved in gathering evidence, however relevant. However even if Angus' credibility is material, McHard must be reminded that a few for the pot usually attract a blind eye locally.
- Again a 'No'. Especially in view of (c) and (d) below. If anyone is to report anyone to the police, it would be the Sheriff if he makes adverse findings against Angus but from what you tell me of the Old Duff, this would be unlikely!
- Yes, it does. It potentially weakens his case considerably. He must be advised to check the reliability of the mason and only put him forward as someone who can establish the age of the stone if he has proper evidence to do so.
- Hmm again! He must be told it is entirely a matter for him whether his personal life and developing local knowledge affects the case. However, he can be reminded that his employers, the Trustees, are unlikely to object if he withdrew the case and that he might be advised to talk it over with his girlfriend.

Good luck with this one, Concerned.

I look forward to hearing what happens.

With every best wish

Aunt Minerva

Book Review

The Mediator's Toolkit: Formulating and asking questions for successful outcomes by Gerry O'Sullivan¹

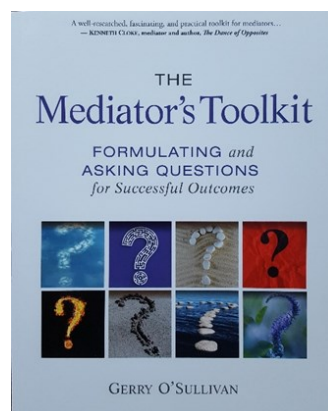
Review by Gordon McKinlay²



There are a lot of books that aim to guide us through the steps of the mediation process, focusing on key skills such as active listening, asking good questions, summarising and reframing. Whilst many of these manuals can prove helpful, I am often struck by

an overly formulaic and simplistic way in which the art of mediative practice can be portrayed. The Mediator's Toolkit by Gerry O'Sullivan is not just another one of those manuals. Instead of merely documenting a list of techniques, the author focuses on good research evidence to offer a fresh perspective on how to ask the right questions to change outcomes and the way individuals think about the things that have got them stuck in conflict.

The resource stands out for a number of really important reasons. For a start, there is a very clear focus on the power of questions. The author argues that the right questions, asked at the right time and in the right way, can be the most powerful tool a mediator has. I am confident that any of us who have found ourselves stuck in struggling to think about what type of question to ask next will agree! As such, a model or framework of questioning is introduced which classifies different types, and when their use will be most appropriate. From gathering information to unearthing interests rather than positions, and on to those which seek to transform the narrative, this helpful classification can guide us to think about what is going on in the mediation room. In addition,



I am particularly struck by the way the approach is grounded in much that will be familiar to those who have read about or practice narrative approaches³ to mediation.

The book is laid out in four main sections. The first provides a clear and understandable discussion of the research base that the author draws on in order to build her argument on questioning. Although based on some quite complex neuroscience and psychology, I found that it is written in a very accessible manner. For example, we don't need a deep understanding of the work of Bandler and Grinder⁴ into neuro-linguistic programming. She also helps us navigate the work of David Rock who developed what are labelled as SCARF drivers⁵. O'Sullivan notes that his work has had a major influence on the way we understand the biological foundations of how we relate to one another. In fact, these drivers of status, certainty, autonomy, relatedness and fairness can be seen as key to exploring how parties perceive and respond to social situations in minimising threat and maximising reward.

The author uses this background and understanding to explain how our brains react to conflict and how skilful questioning can bypass emotional reactivity and tap into more helpful and reflective levels of understanding. I found this section to be particularly helpful in building on my previous understanding of challenges such as our fight, flight and freeze response in difficult situations. I was reminded again of the importance for us of thinking about reactive and reflective thinking and the impact 'amygdala hijacking' can have on how we respond in stressful situations. This is such an important area of the work of the mediator. Finding a way to help parties slow down and focus on the future is clearly vital.

The author argues that the right questions, asked at the right time and in the right way, can be the most powerful tool a mediator has. I am confident that any of us who have found themselves stuck in struggling to think about what type of question to ask next will agree!

Having read this far, you may have formed the impression that this is a very theoretical book. This is far from the case. Having laid out the theory, the second section moves on to consider how the mediator might apply the model in practice before going very much deeper into each classification of question in the remaining two sections of the text.

These latter sections are full of practical exercises, case studies, and real-world examples that make the theoretical concepts immediately applicable. My only slight reservation is that it might be easy to think of the skill of asking questions as too technical and process driven. Given that we have to think quickly about what to ask next, I suspect that practice and experience are key. The more we think about the questions we ask and when we ask them, the better we will become. To this end, parts three and four of the book really should help to inform our reflective practice. This ought to have a positive impact on both what we do 'in the moment' as well as how we look back on the way in which a mediation session went in practice.

In summary, *The Mediator's Toolkit* is both accessible and helpful for anyone who wants to become a more effective practitioner. It is practical in nature as well as being full of insights and strategies that can be used to transform the conflict narrative. I found the book to be well written and engaging. This makes it a really helpful resource even for those who are not familiar with mediation terminology and practice. Anyone navigating the challenges of difficult conversations, whether a manager, work colleague, parent or youth worker will find something of real value here. As such, it is now very definitely a text that has a place in my library and one which will be referred to regularly over the coming months and years.

¹ **Gerry O'Sullivan is a mediator, trainer and facilitator with over 30 years' experience in conflict resolution and training. She is an advanced member of the Mediators' Institute of Ireland, a member of the US-based Mediators Beyond Borders Consultants Team and has delivered training with Lawyers Without Borders. Gerry is a director of O'Sullivan Solutions and lives on the Southwest coast of Ireland.**

² **Gordon McKinlay completed the MSc in Mediation and Conflict Resolution course at Strathclyde University in 2019. He currently works independently in leadership development, executive coaching and as a mediator focusing primarily on the workplace and with families of children with additional support needs, as well as volunteering for Strathclyde Mediation Clinic.**

³ John Winslade and Gerald Monk, *Narrative Mediation: A New Approach to Conflict Resolution* (Jossey-Bass 2000).

⁴ Richard Bandler and John Grinder, *The Structure of Magic: A book about language and therapy* (Science and Behavior Books 1975).

⁵ David Rock, 'SCARF: A Brain-Based Model for Collaborating With and Influencing Others' [2008] 1(1) *Neuroleadership Journal* 44-52.



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