



Mediation Clinic Annual Report

2022

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Introduction from Director

In 2005 Brendan McAllister, then Director of Mediation Northern Ireland, told a group of us that the idea of mediation had “blown across the Atlantic.” Likewise my first sighting of a mediation clinic came from an Irishman teaching in California. His students had just won the UK student mediation competition and I asked what made them so impressive. The penny dropped when he told me about their mediation clinic. It gave them the chance to work regularly in local courts, putting their skills at the service of the local community and gaining fantastic experience in the process.

I would have found it hard to believe something like that could happen in Scotland. Yes, as this report sets out, in just over ten years Strathclyde Mediation Clinic has grown from an idea to a reality to a public service providing significant support to hundreds of small claimants annually. 2022 has been a particularly fruitful year, with more cases than ever, a significant funding contribution from Scottish Government and another award. The following report sets out more detail but first I’d like to express my gratitude to all the Clinic’s supporters. We have been immensely fortunate to have Pauline McKay as our administrator (now Clinic Coordinator) alongside students, alumni, mediators and board members. I’m grateful to them all. I’d also like to say a special thanks to University of Strathclyde Law School for having the vision to host a Master’s in Mediation and Conflict Resolution.



Charlie Irvine
Director, Mediation Clinic

About the Mediation Clinic

The Mediation Clinic is part of Strathclyde Law School. Assistant mediators are largely drawn from the LLM/MSc in Mediation and Conflict Resolution; undergraduates also volunteer to conduct intake calls and provide other support. Lead mediators are experienced practitioners who give generously of their time to mentor new mediators. Many are former students on the LLM/MSc course.

Strathclyde University is known as the 'place of useful learning' with the following values: bold, people oriented, innovative, collaborative and ambitious. While the Clinic's work reflects all of these values, it has been singled out by the Principal as an example of the university's commitment to being people oriented:

<http://www.strath.ac.uk/whystrathclyde/values/>

If you would like to become a supporter of the clinic email us at: mediationclinic@strath.ac.uk

Mission Statement

'Promoting the quick, creative and peaceful resolution of disputes through mediation.'

The Clinic's objectives are:

- To promote access to justice by encouraging the use of mediation as a quick, affordable and effective means of conflict resolution;
- To provide a Centre of Excellence in mediation practice and education, where experienced practitioners work alongside, and supervise, those learning their craft;
- To provide a service to the community by making mediation available in selected Sheriff Courts, Tribunals and other venues in Scotland;
- To provide postgraduate mediation students with the opportunity of applying their academic learning by observing and participating in mediations;
- To provide qualified mediators and former students with the opportunity of gaining further experience in mediation;
- To encourage the legal profession to embrace mediation as a viable alternative to litigation in the resolution of disputes;
- To educate the public about mediation: how it works in practice and its potential in settling disputes quickly, cheaply and collaboratively.

Chairs' Report (2021-2022)

Following on from the 2021 AGM, the Board adopted a slightly modified approach to the recruitment of office bearers. This year we have had two Co-chairs which has spread the Chair's workload to a more manageable level and has worked well for both the Chair's themselves and for the Board. A similar model was adopted for the Secretary's role and the Board's thanks go to Sacha-Annalisa Scott and Irene Murray for their contribution to the Board. Thanks also go to Tom Scade for his contribution as Treasurer.

The Board are also grateful to Charlie Irvine for his guidance and support of the work of the Board, and to Pauline McKay for her contribution to Board meetings and for her enthusiasm and efficiency in her role as Mediation Clinic Coordinator.

Earlier this year, The Board recognised the significant contribution that Patrick Scott has made to The Clinic. Patrick previously served on the Board for 4 years and as Chair for 3 of those years. In March 2022 the Board recognised that Patrick had carried out his 150th mediation and the Board are grateful to Patrick for the support that he has, and continues to give to The Clinic.

Funding

This year has seen a significant milestone for The Clinic, in receiving funding from The Scottish Government. This funding provides Lead Mediators with a modest fee for mediating, which is a long-awaited step towards the recognition of the work that The Clinic carries out. Also, a considerable benefit from this funding is that The Clinic now gains from having Pauline McKay working with The Clinic full time. The benefits of this to The Clinic are considerable and will help to facilitate The Clinic's future development.

Meetings

The Board held eight Board Meetings during the year, which were all well attended. Thanks go to all those who gave up their time to attend meetings and to progress the various action points that were agreed at the meetings. In particular, the Board are grateful to the members of the Conference Group and the Standards Group who have worked to progress the work of The Clinic. The Board also hosted an in-person Strategy Day on the 8th September, which was held at Strathclyde University. A report from this meeting is has been produced, thanks go to Craig Cathcart, with the next steps for The Clinic being highlighted in the report. A meeting for all the mediators and observers was held on 24th August with Charlie Irvine giving an update on 'Mediating in the Courts' and Pauline McKay giving an update on 'Clinic Administration'.

Law Awards

The Mediation Clinic was, for the fourth consecutive year, shortlisted for the Scottish Legal Awards in the category of 'Community Contribution Award'. A gala dinner was held in the ballroom of the Double Tree Hilton Hotel in Glasgow on the 22nd September, with the dinner attended by members of the Clinic. We were delighted to receive a 'Highly Commended Community Contribution Award' with our latest award being suitably celebrated. This award acknowledges not only the work of the Clinic but how much mediation is valued by the Scottish Legal Profession.

Peer Support Sessions

During the year, the Clinic has held 8 Peer Support Sessions. This year we agreed to change the name of these sessions to reflect the supportive aim of these sessions and to further encourage engagement in reflective practice. These sessions provided a safe platform for mediators and observers to explore their mediation experiences and to learn from each other. Feedback from those attending the sessions has confirmed the significant benefit that participants get from these sessions. Moving forward, the Peer Support Sessions will continue to be an important part of how we maintain our practice standards.

CPD events

This year provided 4 CPD sessions which offer the opportunity to keep our mediators up to date on latest practice techniques and developments. In October 2021 we held a Mock Mediation as part of COP26. In March 2022 our CPD session provided attendees with an insight into the 'Consumer Rights Act', led by Dot Reid, Senior Lecturer at the University of Glasgow. This session also proved a workshop on 'Reality Testing', led by Charlie Irvine and Patrick Scott. In June 2022 our CPD session focused on 'Simple Procedure and Mediation', led by Charlie Irvine and 'The Advantages and Disadvantages of Private Session in Court-annexed Mediation', led by Patrick Scott. The Board are grateful to all those who contributed to a successful year of learning and development.

Housing Mediation Project

This year saw the conclusion of the Housing Mediation Project. The Board are grateful to Pauline McKay who was appointed as the Housing Mediation Project Officer in January 2022 and has been integral to the success of this project having administered the project with her usual efficiency.

Mediation Conference 2022

The Clinic held its second UK Mediation Clinic Conference in February this year. The Conference was held online and attracted 60 delegates from a range of mediation backgrounds and geographical locations. It is hoped that this year's conference will be a hybrid event and plans are well progressed for another successful conference.

Conclusion

The Chairs of The Board would once again like to thank all who have contributed to work of The Clinic during the year. There has been significant progressive development in the work of The Clinic and we look forward to the future work of The Clinic with optimism and confidence

Andrew Boyd & Alastair Sharp
Co-chairs: Mediation Clinic
3 October 2022

Director's Report

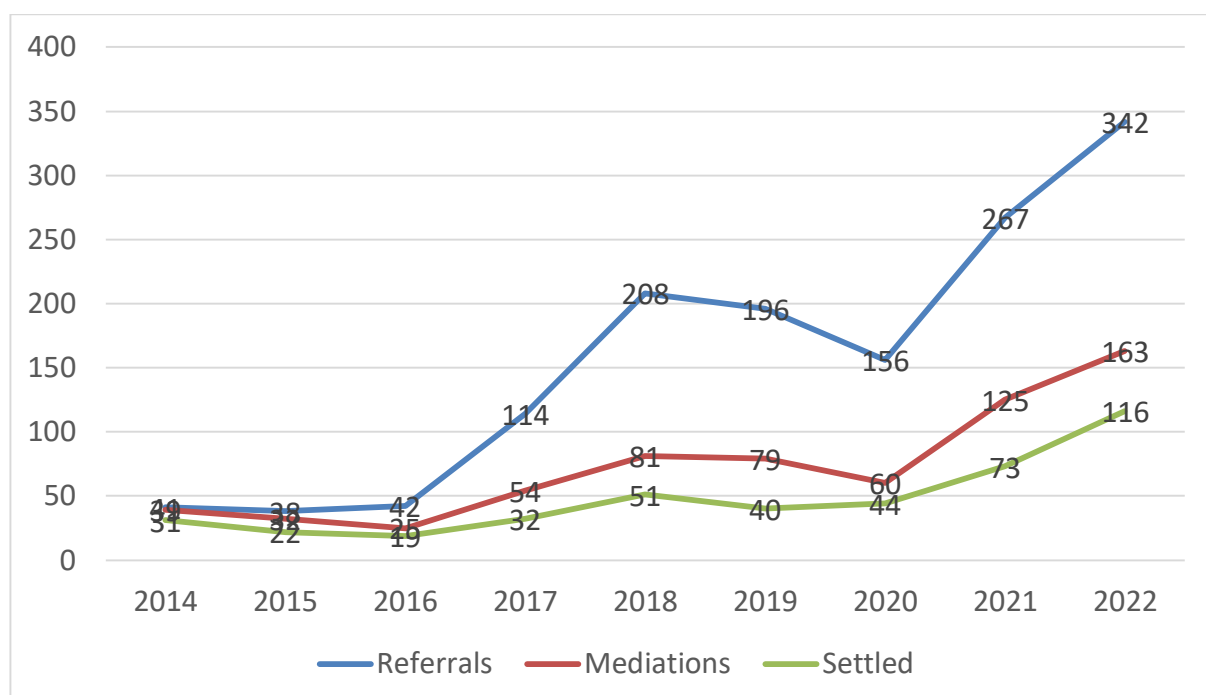
Thanks to Andrew and Alastair for their comprehensive Chairs' Report. They've set out a number of highlights from this past year; a busy year in which I've appreciated the hard work and wise counsel of the board more than ever. In my own report I'd like to stand back a little and consider where the Clinic has come from and where it's going. At just over ten years since our first case it seems a good time to take stock.

The figures below tell their own story of growth and, of course, a great deal of work by a lot of individuals. Yet behind these quantitative measures are real people with real disputes. Mediation is not an easy option. It takes time and effort to pause a court action and talk to the person or company on the other side. It also takes a certain amount of courage. Our clients may not get everything they want and they face the difficult challenge of juggling priorities: cost, risk, time, convenience and their own sense of fairness and justice. And then the other party has to agree or there's no resolution. One of my clients described mediation as "quite a grown-up process."

It is also quite grown-up for the mediators. Not every case will settle; indeed, some shouldn't. We rarely know until the last few minutes of a session how it's going to end. The work is endlessly fascinating but also consistently humbling, and we are only ever one case away from feeling we have failed. Actually we haven't, even when things don't resolve. The benefits of treating people with respect and providing a calm, safe space to talk go well beyond the immediate outcome. There's a move within the mediation community to devote more attention to the impact of mediating even when there isn't agreement on the day, and the Clinic has recently begun tracking the progress of cases that don't settle.

The Long View

The table below shows the Clinic's caseload since we were first invited to offer mediation in Glasgow Sheriff Court in 2014.



At a glance we see three distinct phases. From 2014-16 Clinic mediators operated under the old Small Claims rules, sitting in the back of the court in Glasgow and Lanark waiting on the sheriff's initiative. Some encouraged mediation; some didn't.

Then, from 2017-2019, the new Simple Procedure Rules¹ placed a duty on sheriffs to encourage settlement via negotiation or ADR (the commonest form of which is mediation). The impact was immediate, with two Sheriffs Principle asking the Clinic to provide mediation in their areas. By the start of 2020 the Clinic was regularly operating in Glasgow, Paisley, Kilmarnock and Falkirk with occasional referrals from a number of other courts in the West of Scotland.

Everything changed in 2020. We all know the reason, and the first few months of the pandemic saw no cases at all. Convinced of mediation's capacity to adapt we trained on Zoom and prepared ourselves for online dispute resolution. The results can be seen on the graph. From the second half of 2020 courts started referring again. More significantly distance no longer presented a barrier and the Clinic started receiving requests to provide mediation in a much wider range of courts. In 2021 we started working with the Sheriffdom of South Strathclyde, Dumfries and Galloway covering Hamilton, Airdrie, Lanark, Ayr, Dumfries and Stranraer. As things stand in September 2022 we offer mediation in 18 sheriff courts.

Caseload since 2014:

Total cases referred	1,404
Total cases mediated	658
Total cases settled	427

This represents a settlement rate of **65%**.

I'd like to pay tribute to the mediators and students who have made this possible. Small claims are not easy claims. If they were they'd have sorted it out themselves. It takes skill and patience to navigate these cases through to resolution. They can often feel like 'one step forward, one step back.' Yet most of the time our clients use mediation as an opportunity to negotiate a resolution they can sign up to. It's worth turning to the detailed feedback comments in Appendix 5 to learn more about how they saw the process and the mediators.

This year

This year's figures are particularly encouraging.

Total cases referred	342 (court referrals 307)
Total cases mediated	163 (court referrals 155)
Total cases settled	116 (court referrals 108)

This represents a settlement rate of **71%** (70% for cases referred by the court).

¹ Act of Sederunt (Simple Procedure) 2016. Available from <https://www.legislation.gov.uk/ssi/2016/200/contents>

Here again it is worth looking behind the numbers. As time goes on our mediators are gaining experience and becoming that bit more flexible. Every case provides fresh insights. We also learn from our mistakes. As the offshoot of a postgraduate course the Clinic is rooted in academic writing and critical thinking, and so from the beginning I've asked our mediators to complete a reflection at the end of each case. In this way we capture our learning. When you write down your thoughts you preserve them more effectively and systematically than simply leaving that to fallible memory. Each year I can see the progress individual practitioners are making as gradually, step by step, they build their confidence and range. I also glimpse how seriously they take their work and the genuine concern they feel for clients who are unable to reach a resolution.

Intake

A quick glance at the figures reveals something else: not every case referred by court or individual² is mediated. 184 (53%) of our 342 referrals reached the point where we could consider them one of our own cases; of these 163 (89%) actually mediated. Between those two numbers a great deal of work goes on, unseen in the statistics.

The Clinic relies on parties making contact; it sometimes surprises people that the courts rarely provide us with more than their names. If one party does get in touch our volunteers offer an "intake" call. On the call we may get the address of the other – sometimes not. The volunteer makes a second call. Only when both parties clearly understand what's involved and agree to take part do we open a Clinic mediation case. In 2021-22 we conducted 384 intake calls, 214 to Claimants and 170 to Respondents. This represents 7,680 minutes (130 hours) of volunteer time with calls ranging from 7 to 73 minutes and the average call lasting 21 minutes.

What takes place on these calls? I'd argue they're a form of support for unrepresented people. At the minimum they provide a two-way exchange of information: on one side we listen, obtaining parties' details and finding out what the case is about; on the other side we explain what's involved in mediating, how long it might last, what the challenges may be (including using Zoom). For some clients it is the first time they've had the chance to speak to anyone about the dispute. Many know little of the court process and learn valuable information about what awaits them if the matter doesn't settle. For others, particularly repeat-players like lawyers and managers of large utilities, the calls are more routine and once the basic information has been exchanged they're happy to stop.

Mediation is voluntary as much for the mediators as for the parties. On rare occasions the Clinic may decide not to offer a joint meeting. There can be a range of reasons, but it's important that we don't inadvertently point the finger of blame at either party. In Appendix 4 you'll find examples of our intake forms and the standard letter we have developed where we consider a case unsuitable.

Zoom

The Clinic's mediators are now veterans of online communication. When faced with real-time conversations about high-stakes matters it's crucial to be on top of the technology. We've developed the practice of holding a quick technical call in advance of the session to make sure everything is working. We've become adept at using breakout room and sharing screens.

This is not to say that online is best. As the impact of the pandemic subsides we continue to debate the question of whether, or rather in what circumstances, to return to face-to-face mediation. There

² Self-referrals accounted for 30 (9%) of 342 referrals in 2021/22. 7 came to mediation and all settled.

are strong arguments for both approaches. It is useful to look at our client feedback in Appendix 5, question 5, where we asked 'Would you have preferred a face-to-face mediation?' Out of 58 responses 43 (74%) said no and another 6 had no preference. The detailed comments offer a more nuanced picture, with a number mentioning convenience as well as the comfort of being in one's own space. For some there is a positive advantage in not sharing a room with the other party. For others Zoom was definitely second best. While it may be time to offer in-person mediation in some circumstances remote mediation (both telephone and Zoom) seems to work reasonable well for most people, and probably reflects the relatively modest value of many of our cases.

The future

I've saved one headline for last: in March 2022 the Scottish Government provided a grant of £71,559. This is for a period of 15 months and covers a) the salary of a full-time Mediation Clinic Coordinator, and b) payment of a fee of £100 per case to each lead mediator. This funding speaks of our contribution to the justice system and will enable us to continue offering a free mediation service in a number of courts across the West and South of Scotland.

It is certainly good news and puts the Clinic on a more professional footing, particularly through having a dedicated coordinator. Mediator fees reflect my own strong belief that we're providing a high-stakes, professional service. I'm sure many challenges remain, not least in securing future funding. We look forward to working with partners such as Scottish Mediation and Edinburgh Sheriff Court Mediation Service as we continue to embed mediation within the justice system.

There are bigger questions in front of us. What part should academic institutions like Strathclyde play in developing mediation? What should the minimum qualification for a mediator be? Should the Mediation Clinic continue to grow? What about other areas of practice? How might we develop a more buoyant profession in Scotland and around the world?

I end on these questions because they suggest there is a future for the Mediation Clinic. Constant change in the world around us only serves to reinforce the simple idea of putting academic learning at the service of the community. I've thoroughly enjoyed watching beginner mediators take the first halting steps, sometimes with a bit of help, before developing into consummate practitioners. If you'd like to join us for the next stage of the journey, as a supporter, mediator or student, please get in touch.

Co-ordinator's Report

This year my role has taken me from Housing Mediation Project Worker, a Project that came to its 3 year end in January 2022 to Mediation Clinic Co-ordinator – a post that is funded by the Scottish Government until March 2023. This welcome funding means that there is more time to focus on developing the Clinic further with regards to Strategy, Diversity and Funding as well as juggling our increasing caseload. The funding also sees our committed Lead mediators finally being remunerated.

As can be drawn from the figures, this year has been our busiest year to date. An important part of moving the mediation process forward is our Intake Process (speaking with each party in dispute before going forward for mediation). In October 2021 we provided training for Undergraduate and Postgraduate students to assist with this process. Over 50 students attended the initial training with 17 following through the full training. The students tell us they enjoy volunteering and it provides experience of dealing with parties involved in real life disputes. Training is again due to take place in October 2022 and we value their assistance in dealing with our increasing case load.

We are currently piloting a process whereby there is an allocated mediator to a specific court. There are 6 courts involved and this has reduced the burden of intake from the Clinic support staff. We should be able to provide data within the next few months as to whether the party engagement has improved.

This year has also seen an increase in membership from mediators external to the University. We have been able to offer practical experience to a broad range of newly qualified mediators who hope to continue their mediation journey with us. At present the Clinic has a membership of 64 with mediators based in the UK and overseas.

In May 2022, we were fortunate enough to be able to recruit on a one year contract, a Student Assistant (Elise Marshall) who has been a welcome addition to the team. Already working for the Clinic undertaking intake calls Elise was able to slot in seamlessly and her report can be read below.

Continuous support of our mediators is important to us. In addition to the Peer Support Sessions and reflective feedback and CPD sessions, we have recently introduced a new SharePoint site. We aim for it to be a one-stop-shop for support materials for our mediators. This will continue to be developed over the coming months.

We have lots to look forward to in the coming year not least the 3rd Mediation Clinic Annual Conference which will take place on Saturday 18 March 2023. The theme this year being “Working within the courts: the role of mediation and mediation clinics in civil justice systems”. Work is already underway to bring attendees the best experience possible in person and online. We do hope you can join us then.

Pauline McKay

Mediation Clinic Co-ordinator

Student Assistant Report

I have been working on a part-time basis for the Mediation Clinic since May 2022, as an Administrative Assistant. One role within my job is to undertake intake calls with clients to gather further information on their case and establish their willingness to negotiate. Speaking directly with clients has taught me how to deal with distressed, frustrated and vulnerable clients to help resolve their disputes. Other daily tasks within the clinic include responding to email enquiries from clients, court representatives and mediators, and arranging dates for mediations to take place. Arranging mediations can be a difficult process as consideration must be given to the availability to mediators, assistant mediators, observers and parties.

This role within the clinic has not only afforded me the opportunity to learn more about the mediation process, but it has allowed me to develop my confidence, my interpersonal skills and my IT skills. Working alongside Pauline and Charlie is a great working environment, as they are always available to assist me with any questions I have. This job has reaffirmed to me that I wish to become a mediator in the future and continue a relationship within the clinic even when my employment contract has expired.

Elise Marshall
Student Administrative Assistant
Strathclyde Mediation Clinic

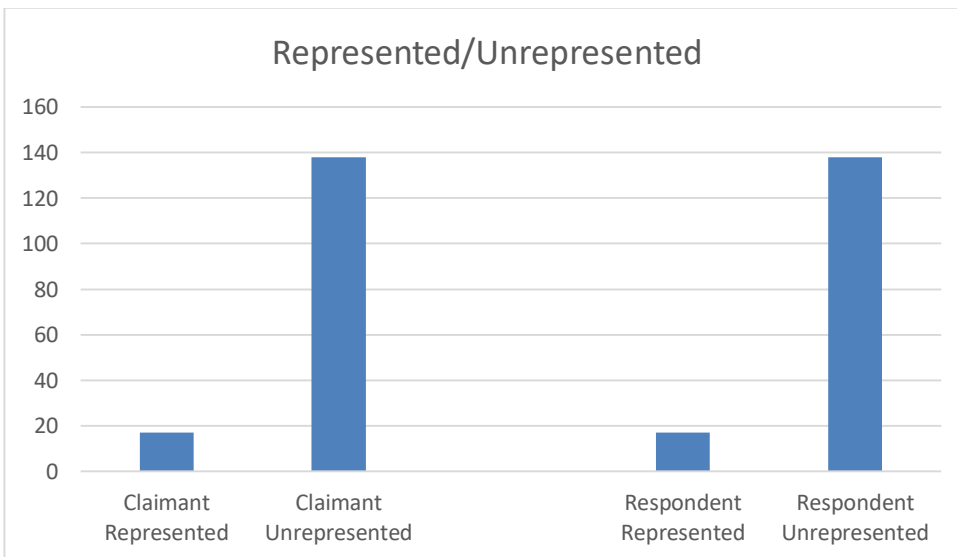
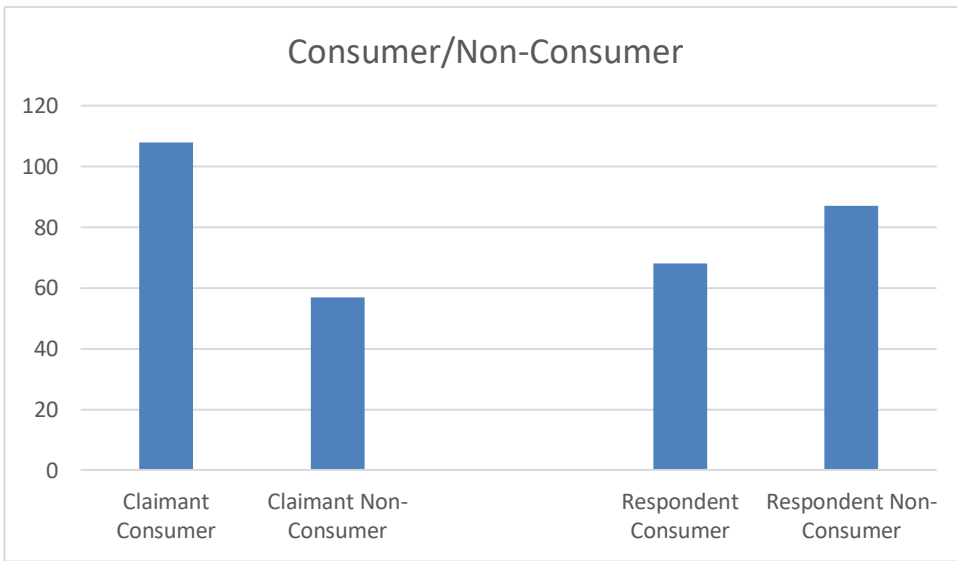
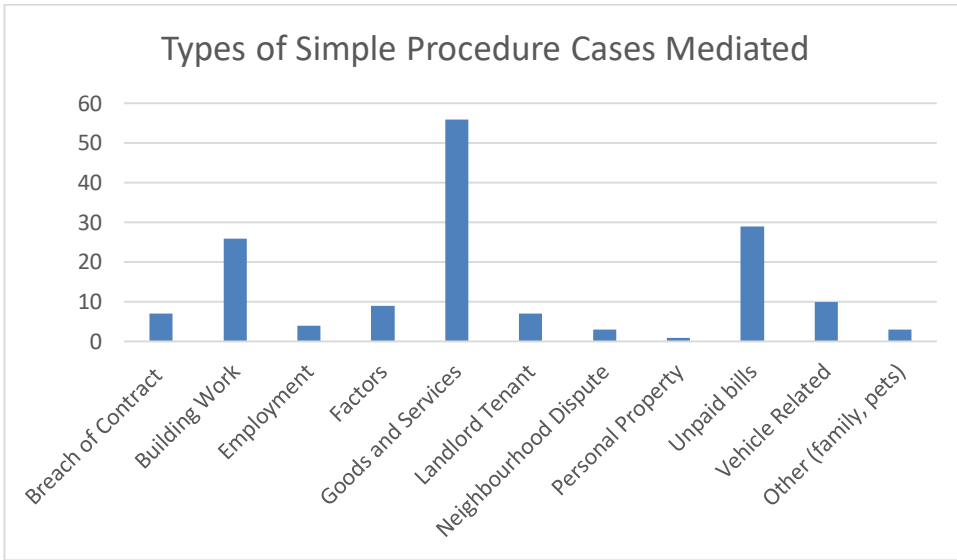
Appendix 1: Mediation Clinic Stats: October 2021 – September 2022

	Glasgow & Strathkelvin	North Strathclyde					
SIMPLE PROCEDURE TO 01 Oct 2021 - 27 September 2022	Glasgow	Campbelltown/ Dumbarton	Dunoon	Kilmarnock	Oban	Paisley	Sub Total
No of Referrals b/f from September 2021	16	0	0	2	0	1	3
No of Referrals October 2021 onwards	40	3	2	34	2	20	61
TOTAL at 27/09/2022	56	3	2	36	2	21	64
Referrals that turned into cases	37	2	2	36	1	13	54
Cases that Mediated	33	2	1	33	1	10	47
Cases that Settled on the day	23	1	0	27	1	6	35
Cases that Settled after mediation	1	0	0	1	0	0	1
Cases that did not settle	7	1	1	2	0	4	8
Cases Partial Settlement	1	0	0	0	0	0	0
Mediation Case Paused for more information	0	0	0	3	0	0	3
Cases Settled without Mediation	4	0	0	0	0	1	1
Cases Mediated but pending outcome	0	0	0	0	0	0	0
Cases Mediated by Zoom	32	2	1	32	1	10	46
Cases Mediated by Telephone Conference	1	0	0	1	0	0	1
Cases Mediated by Zoom/Email/Telephone	0	0	0	0	0	0	0
Cases Mediation by Shuttle Telephone	0	0	0	0	0	0	0
Unsuitable for Mediation	0	0	0	0	0	0	0
% of Cases from Referrals	66%	67%	100%	100%	50%	62%	84%
% of Cases that mediated	89%	100%	50%	92%	100%	77%	87%
Settlement rate %	73%	50%	0%	85%	100%	60%	77%
No response from either party	2	0	0	0	0	0	0
Did not mediate - but contact from one party	10	1	0	0	0	3	2
Cases that did not mediate as claimant declined	0	0	0	1	0	0	1
Case that did not mediate as respondent declined	2	0	0	1	0	1	2
Did not mediate used alt service	0	0	0	0	0	0	0
Mediations to be arranged	2	0	1	0	0	1	2
Mediations arranged by not yet taken place	1	0	0	0	0	2	0
Intakes in progress	4	0	0	0	1	0	1
Party Action Required in progress	2	0	0	0	0	0	0
No of cases with Allocated Court Mediator	n/a	n/a	n/a	0	n/a	n/a	0

	South Strathclyde						
SIMPLE PROCEDURE TO 01 Oct 2021 - 27 September 2022	Airdrie	Ayr	Dumfries	Hamilton	Lanark	Stranraer	Sub Total
No of Referrals b/f from September 2021	5	4	3	1	0	0	13
No of Referrals October 2021 onwards	46	21	29	31	12	3	142
TOTAL at 27/09/2022	51	25	32	32	12	3	155
Referrals that turned into cases	22	13	11	13	5	2	66
Cases that Mediated	18	11	11	11	3	2	56
Cases that Settled on the day	9	6	8	6	0	2	31
Cases that Settled after mediation	0	0	0	1	0	0	1
Cases that did not settle	7	4	3	2	2	0	18
Cases Partial Settlement	0	0	0	0	0	0	0
Mediation Case Paused for more information	0	2	0	1	0	0	3
Cases Settled without Mediation	3	0	0	1	0	0	4
Cases Mediated but pending outcome	0	0	0	0	1	0	1
Cases Mediated by Zoom	20	10	11	8	3	2	54
Cases Mediated by Telephone Conference	0	0	0	1	0	0	1
Cases Mediated by Zoom/Email/Telephone	0	0	0	0	0	0	0
Cases Mediation by Shuttle Telephone	0	0	0	0	0	0	0
Unsuitable for Mediation	4	1	0	5	2	0	12
% of Cases from Referrals	43%	52%	34%	41%	42%	67%	43%
% of Cases that mediated	82%	85%	100%	85%	60%	100%	85%
Settlement rate %	50%	55%	73%	64%	0%	100%	57%
No response from either party	1	0	1	0	1	0	3
Did not mediate - but contact from one party	14	3	3	3	2	0	25
Cases that did not mediate as claimant declined	3	1	1	2	0	0	7
Case that did not mediate as respondent declined	2	2	1	1	0	1	7
Did not mediate used alt service	0	0	0	0	0	0	0
Mediations to be arranged	1	1	0	2	2	0	6
Mediations arranged by not yet taken place	2	1	0	1	0	0	4
Intakes in progress	1	1	2	0	0	0	4
Party Action Required in progress	0	3	5	2	2	0	12
No of cases with Allocated Court Mediator	3	0	8	7	0	n/a	18

	Tayside, Central and Fife							
SIMPLE PROCEDURE TO 01 Oct 2021 - 27 September 2022	Alloa	Falkirk	Dunfermline	Kirkcaldy	Stirling	Sub Total	TOTAL SIMPLE PROCEDURE	ALL CASES TOTAL
No of Referrals b/f from September 2021	2	2	0	2	1	7	39	44
No of Referrals October 2021 onwards	2	12	3	2	6	25	268	298
TOTAL at 27/09/2022	4	14	3	4	7	32	307	342
Referrals that turned into cases	2	9	2	2	4	19	176	184
Cases that Mediated	2	9	2	2	4	19	155	163
Cases that Settled on the day	2	6	0	2	3	13	102	110
Cases that Settled after mediation	0	1	1	0	1	3	6	6
Cases that did not settle	0	2	1	0	0	3	36	36
Cases Partial Settlement	0	0	0	0	0	0	1	1
Mediation Case Paused for more information	0	0	0	0	0	0	6	6
Cases Settled without Mediation	0	0	1	0	0	1	10	12
Cases Mediated but pending outcome	0	0	0	0	0	0	1	1
Cases Mediated by Zoom	2	9	0	2	3	16	148	156
Cases Mediated by Telephone Conference	0	0	0	0	1	1	4	4
Cases Mediated by Zoom/Email/Telephone	0	0	0	0	0	0	0	0
Cases Mediation by Shuttle Telephone	0	0	0	0	0	0	0	0
Unsuitable for Mediation	0	0	0	0	0	0	12	14
% of Cases from Referrals	50%	64%	67%	50%	57%	59%	57%	54%
% of Cases that mediated	100%	100%	100%	100%	100%	100%	88%	89%
Settlement rate %	100%	78%	50%	100%	100%	84%	70%	71%
No response from either party	0	1	0	0	0	0	5	6
Did not mediate - but contact from one party	0	1	0	1	1	3	40	53
Cases that did not mediate as claimant declined	1	0	0	0	0	1	9	12
Case that did not mediate as respondent declined	1	0	0	1	0	2	13	16
Did not mediate used alt service	0	0	0	0	0	0	0	0
Mediations to be arranged	0	0	0	0	0	0	10	10
Mediations arranged by not yet taken place	0	0	0	0	0	0	5	5
Intakes in progress	0	0	0	0	0	0	9	9
Party Action Required in progress	0	0	0	0	2	0	14	17
No of cases with Allocated Court Mediator	n/a	3	n/a	n/a	n/a	n/a	21	21

	Misc				
SIMPLE PROCEDURE TO 01 Oct 2021 - 27 September 2022	CAB	Law Clinic	Self	Subtotal	Enq not taken any further
No of Referrals b/f from September 2021	1	0	4	5	0
No of Referrals October 2021 onwards	2	2	26	30	0
TOTAL at 27/09/2022	3	2	30	35	14
Referrals that turned into cases	1	0	7	8	0
Cases that Mediated	1	0	7	8	0
Cases that Settled on the day	1	0	7	8	0
Cases that Settled after mediation	0	0	0	0	0
Cases that did not settle	0	0	0	0	0
Cases Partial Settlement	0	0	0	0	0
Mediation Case Paused for more information	0	0	0	0	0
Cases Settled without Mediation	0	0	2	2	0
Cases Mediated but pending outcome	0	0	0	0	0
Cases Mediated by Zoom	1	0	7	8	0
Cases Mediated by Telephone Conference	0	0	0	0	0
Cases Mediated by Zoom/Email/Telephone	0	0	0	0	0
Cases Mediation by Shuttle Telephone	0	0	0	0	0
Unsuitable for Mediation	0	0	2	2	1
% of Cases from Referrals	33%	0%	23%	23%	0%
% of Cases that mediated	100%	0%	100%	100%	0%
Settlement rate %	100%	0%	100%	100%	0%
No response from either party	0	0	1	1	1
Did not mediate - but contact from one party	0	1	12	13	7
Cases that did not mediate as claimant declined	2	1	0	3	1
Case that did not mediate as respondent declined	0	0	3	3	0
Did not mediate used alt service	0	0	0	0	0
Mediations to be arranged	0	0	0	0	0
Mediations arranged by not yet taken place	0	0	0	0	0
Intakes in progress	0	0	0	0	3
Party Action Required in progress	0	0	3	3	1
No of cases with Allocated Court Mediator	n/a	n/a	n/a	n/a	n/a



Appendix 2: Financial Summary

Scottish Government Funding (Main Project K900261)

Total Allocation at 24/03/2022: **£71,559.00**

The above amount has been divided into two separate accounts:
Main Salaries (£55,934) and Mediator Payments (£15,625)

15410K220440-101 Main Salaries

Balance 09/05/2022 £55,934.00

Transfer from other accounts for

Salary from 25/01/2022 – 30/04/2022 £11,836.81

Less Salaries: 23/05/2022 £ 3692.86

Less Apprenticeship Levy £ 13.88

Less Salaries: 23/06/2022 £ 3692.86

Less Apprenticeship Levy £ 13.88

Less Salaries: 23/07/2022 £ 3692.86

Less Apprenticeship Levy £ 13.88

Less Salaries: 23/08/2022 £ 3807.03

Less Apprenticeship Levy £ 14.30 £26,778.36

Balance in Main Salaries at 30/09/2022 **£29,155.64**

15410K220440-102 Mediator Payments

Balance at 06/06/2022 £15,625

Less Mediator Payments (May - June): £6239.77

Less Mediator Payments (July – August) £3292.05 £9531.82

Balance in Mediator Payments at 30/09/2022 **£6093.18**

Total Balance from Total Allocation at 30/09/2022 **£35,248.82**

Mediation Clinic General Budget: 15410 GEN 1351 - 113

Balance at 01/10/2021 £14074.17

Less	KD Media	£1356.00	
	Learning Services	£ 800.00	
	Insurance Services	£ 352.00	
	IT equipment	£2182.46	
	Clinic Expenses	£ 237.75	
	Catering	£ 235.20	
	Faculty Transfer	<u>£ 3718.42</u>	
			<u>£8881.83</u>

Balance at 30/09/2022 £5192.34

Housing Project - K171558-101

Overall Housing Project Budget

Income from SafeDeposits Scotland Trust (All Awards)		£50,045.00
Expenditure	<u>£45,688.60</u>	
Balance		<u>£ 4,356.40</u>

AMC - K680130-101

Balance at 06 September 2022 £8475.84

Less predicted spending:

Student Assistant Salary:	Sept 22	£597.58	
	Oct 22	£597.58	
	Nov 22	£597.58	
	Dec 22	£597.58	
	Jan 23	£597.58	
	Feb 23	£597.58	
	March 23	£597.58	
	April 23	£597.58	
	May 23	£300 estimate	<u>£5,080.64</u>

Estimated remaining funds £3395.20

Appendix 3: List of Members

Staff

Charlie Irvine	Director
Pauline McKay	Co-ordinator
Elise Marshall	Student Assistant

Board Members: 2021-2022

Charlie Irvine	Director
Andrew Boyd	Joint Chair
Alastair Sharp	Joint Chair
Irene Murray	Joint Secretary
Sacha-Analise Scott	Joint Secretary
Thomas Scade	Treasurer
Craig Cathcart	
Frank Eijkman	
Pauline McKay	
Sandy Sanghera	
Elise Schwarz	
Alastair Sharp	

Intake Workers 2021-22

Anju Babu	Undergraduate Student
Alexandra Brown	Undergraduate Student
Ben Cramer	Mediator
Ariana Findlay	Postgraduate Student
Sarah Kinnear	Undergraduate Student
Georgia Knox	Undergraduate Student
Thomas Lam	Undergraduate Student
Elise Marshall	Undergraduate Student
Pauline McKay	Mediator
Shahida Mukit	Undergraduate Student
Thomas Scade	Mediator
Ceejay Scullion	Undergraduate Student
Arun Smith	Undergraduate Student
Leon Watson	Postgraduate Student

List of Mediators/Observers as at September 2022

Lead Mediators	Assistant Mediators	Observers / others
Arada Farid	Armstrong John	Armstrong Dean
Barclay Ailie	Bass Ian	Forrest Jemma
Bicknell Rachael	Belle Sainey	Haggarty Peter
Boyd Andrew	Campbell Robert	Kelly Lorna
Cramer Ben	Catanach Lisa	Knight David
Crawford Ross	Cathcart Craig	McAleavey Shannon
Davies Gordon	Crawford Angus	Muirhead Beth
Ebbitt Alison	Ferguson Garry	Olatunji Eunice
Kirkwood Paul	Gunn Maureen	Oluyole Segun
McKay Pauline	Jeffrey Alan	Oyinkro Olobio
Mckinlay Gordon	Kelly Stuart	Rait Mark
O'Krent Marc	Kennedy Pat	Reid Andrew
Phipps Linn	Murray Irene	Richards Mandy
Poyntz Roy	Reindert Eijkman	Rius Fabregat Aitana
Scade Thomas	Rodrigues Jonathan	Rogers Rachel
Schwarz Elise	Sanghera Sandy	Strain Lauren
Scott Patrick	Scott Sacha-Analise	Thomas Henderson
Sharp Alastair	Stewart Margaret	Watanak Chhuon
Sim Frances	Teggin Victoria	Brys Catherine
Thompson Carolyn	Tobia Alison	MacLennan Elaine
Welsh Alison	Watson Adrienne	Morrison Maureen

Total = 63

Appendix 4: Examples of Mediation Clinic Forms

Intake Form



To be read to all parties:

Before offering a service we need to process the information you provide us with and we need your consent to do this.

The information you provide in this call/meeting will be used to decide whether or not we can help you. We may need to discuss this information with authorised Mediation Clinic staff. The information will be held securely on a University server and access to this is restricted to authorised staff, Mediation Clinic students and our external volunteer mediators.

You have various rights in relation to your data including the right to have your data erased. This is detailed in our Privacy Notice (available on our website: <https://www.strath.ac.uk/humanities/lawschool/mediationclinic/>).

Party 1

I understand that the Mediation Clinic at the University of Strathclyde will be processing my personal information for the purpose of managing my mediation case and sharing it with mediators who may be external to the University. Please see our Privacy Notice for further details on how the Mediation Clinic will use your data.

Name/Signature : _____ **Date:** _____

Obtained in person / telephone / email / zoom

Obtained by: _____

Party 2

I understand that the Mediation Clinic at the University of Strathclyde processing my personal information for the purpose of managing my mediation case and sharing it with mediators who may be external to the University. Please see our Privacy Notice for further details on how the Mediation Clinic will use your data.

Name/Signature : _____ **Date:** _____

Obtained in person / telephone / email / zoom

Obtained by: _____

Which Court?		Sheriff Court Case number:	
Consent for Data		Intake Worker	
<u>Stage in Legal Process</u>			
Next Court Date:		Law Clinic Referral <input type="checkbox"/>	
Paused? Y/N		Housing Tribunal <input type="checkbox"/>	
Did a case management discussion take place?		CAB <input type="checkbox"/>	
Y/N If so, date:		Self <input type="checkbox"/>	
Amount Claimed (this is the amount stated in the Summons):			
How is this amount broken down:			
<u>Type of Case (please bold or underline)</u>			
Breach of contract	Building work	Factors	
Goods and Services	Neighbourhood	Personal Property	
Reputation of Business	Tenant / Landlord	Unpaid bills	
Vehicle Related			

Please identify which party made contact first :	
<input type="checkbox"/>	<input type="checkbox"/>
Claimant(s) or Party A	Respondent(s) or Party B
Name(s):	Name(s):
Address:	Address:
Contact Number:	Contact Number:
e-mail:	e-mail:
Represented by (if applicable):	Represented by (if applicable)
Do you have full authority to settle in this case?	Do you have full authority to settle in this case?
Are you a Consumer or a business?	Are you a Consumer or a business?
Notes from the intake Worker:	

Claimant(s) or Party A

What is the situation?

What have you done to try and resolve the issue(s)?

What offers, if any, have been made by either party?

What do you hope to get out of mediation?

Mediation requires both parties to engage in the process; would you be willing to speak with and listen to the other party in order to come to an agreement that you can both live with?

Would you be willing to share court papers (ie claimant or respondent response form)? Yes / No

If yes, please ask them to email: mediationclinic@strath.ac.uk

Any particular concerns?

Who will be attending the mediation?

Mediation Type (Please bold or underline):

Zoom video

Zoom with Camera Off

Telephone Conference

Please note we do not conduct mediation via Zoom shuttle or Telephone shuttle. We find that mediations are unlikely to succeed if parties are not able to speak to each other face to face

Are you clear on the mediation process and how it works?

Availability:

Date:

Duration of Call:

Respondent(s) or Party B

What is the situation?

What have you done to try and resolve the issue(s)?

What offers, if any, have been made by either party?

What do you hope to get out of mediation?

Mediation requires both parties to engage in the process; would you be willing to speak with and listen to the other party in order to come to an agreement that you can both live with?

Would you be willing to share court papers (ie claimant or respondent response form)? Yes / No

If yes, please ask them to email: mediationclinic@strath.ac.uk

Any particular concerns?

Who will be attending the mediation?

Mediation Type (Please bold or underline):

Zoom video

Zoom with Camera Off

Telephone Conference

Please note we do not conduct mediation via Zoom shuttle or Telephone shuttle. We find that mediations are unlikely to succeed if parties are not able to speak to each other face to face

Are you clear on the mediation process and how it works?

Availability:

Date:

Duration of Call:

Unsuitable Letter



Dear

I understand that you made contact with the Mediation Clinic at the suggestion of the Sheriff Court and spoke to one of our mediators on the telephone. The other party has also made contact with us.

Following this conversation, I have reluctantly come to the conclusion that we cannot offer mediation in this instance. Mediation is a voluntary, confidential process whose aim is to help those involved in a civil dispute to negotiate a mutually acceptable resolution. While we try to provide our free service to all who seek it, we are under no obligation to do so and take the view that some situations are not suitable for mediation.

Our commitment to confidentiality means we cannot comment on your particular case. However, the following are examples of the sort of cases where we would not offer mediation and will refer the matter back to the court for a decision:

- Where no consensus can be reached over the terms on which the mediation should take place
- Where one or both parties seeks a judicial ruling on contentious matters
- Where one party accuses the other of acting in bad faith
- Where one party wishes the court to set a precedent
- Where the gap between parties is so great that there is no realistic prospect of resolution

Nothing in this message should be interpreted as suggesting that either party failed to engage with the Mediation Clinic. The decision not to offer mediation is ours alone.

I believe the case has been paused for mediation. Either party may apply to have it re-started by completing the Simple Procedure Application to Restart form – available at https://www.scotcourts.gov.uk/docs/default-source/rules-and-practice/forms/sheriff-courtforms/simple-procedure-forms/form_9b.pdf?sfvrsn=4

A message in the same terms has been sent to the claimant/respondent.

Yours sincerely

Charlie Irvine
Director, Mediation Clinic

Settlement Agreement



SETTLEMENT AGREEMENT

Case No:

This document records the settlement agreement between

(Party A) : _____

and

(Party B) : _____

reached in mediation on: _____ (date).

The terms of this agreement have been read out to the parties by the Mediator:

_____ (name) on _____ (date)

and accepted by them as an accurate account of their agreement and fully binding.

The Parties agree as follows:

What is to be done? By whom? By what date? 'In full and final settlement of ...'

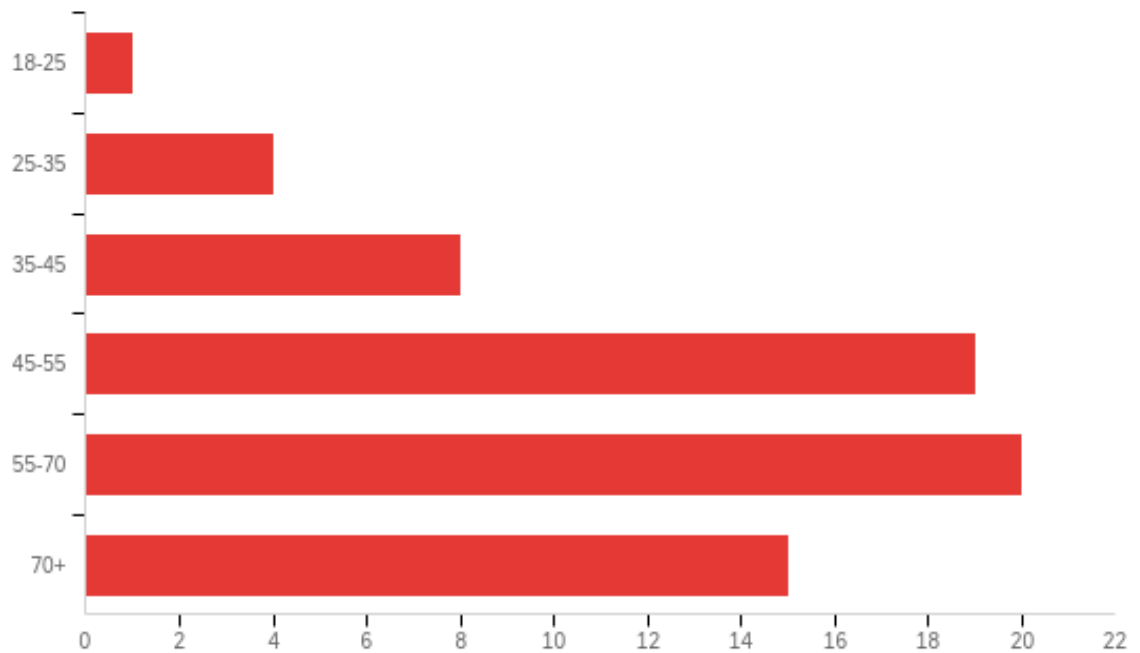
Signed:

(Mediator) (Date) Witness

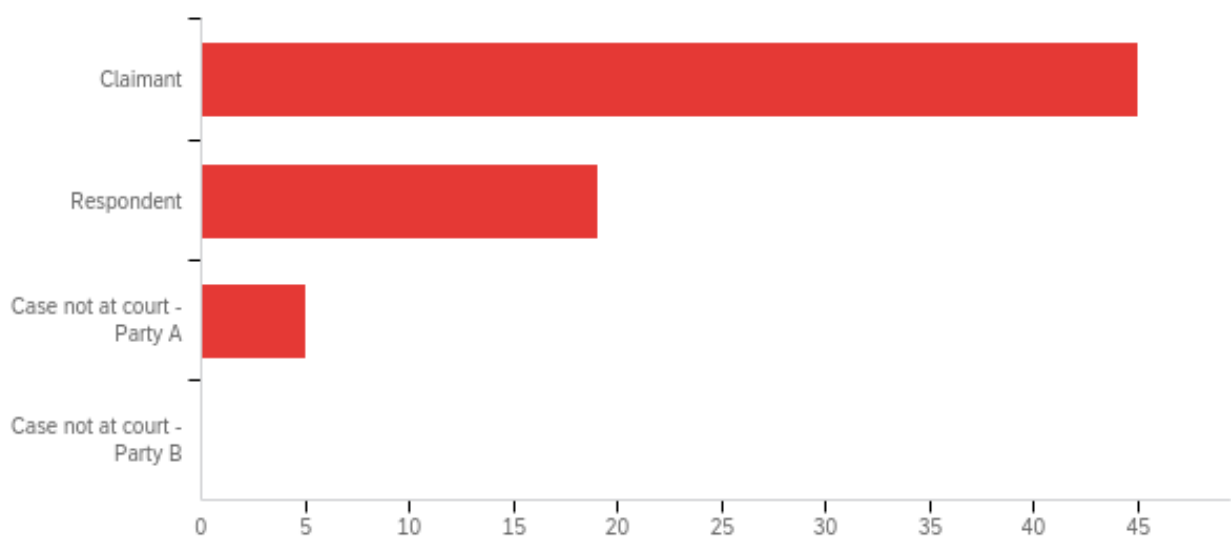
Appendix 5

University of Strathclyde Mediation Clinic Feedback: October 21-September 22
70 responses (please note not all questions were answered)

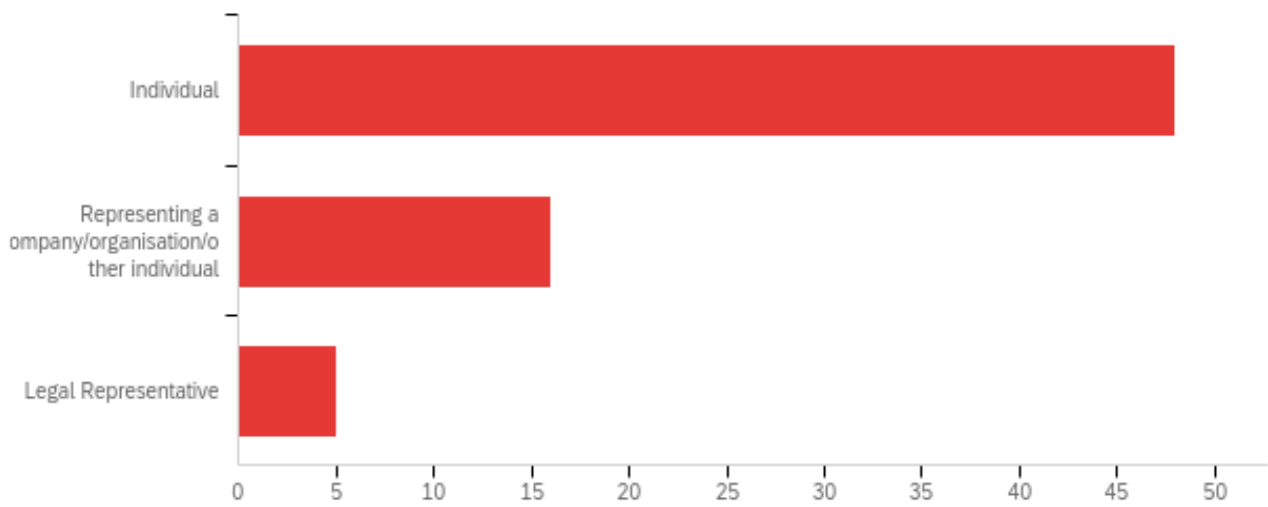
Q1 - Age range



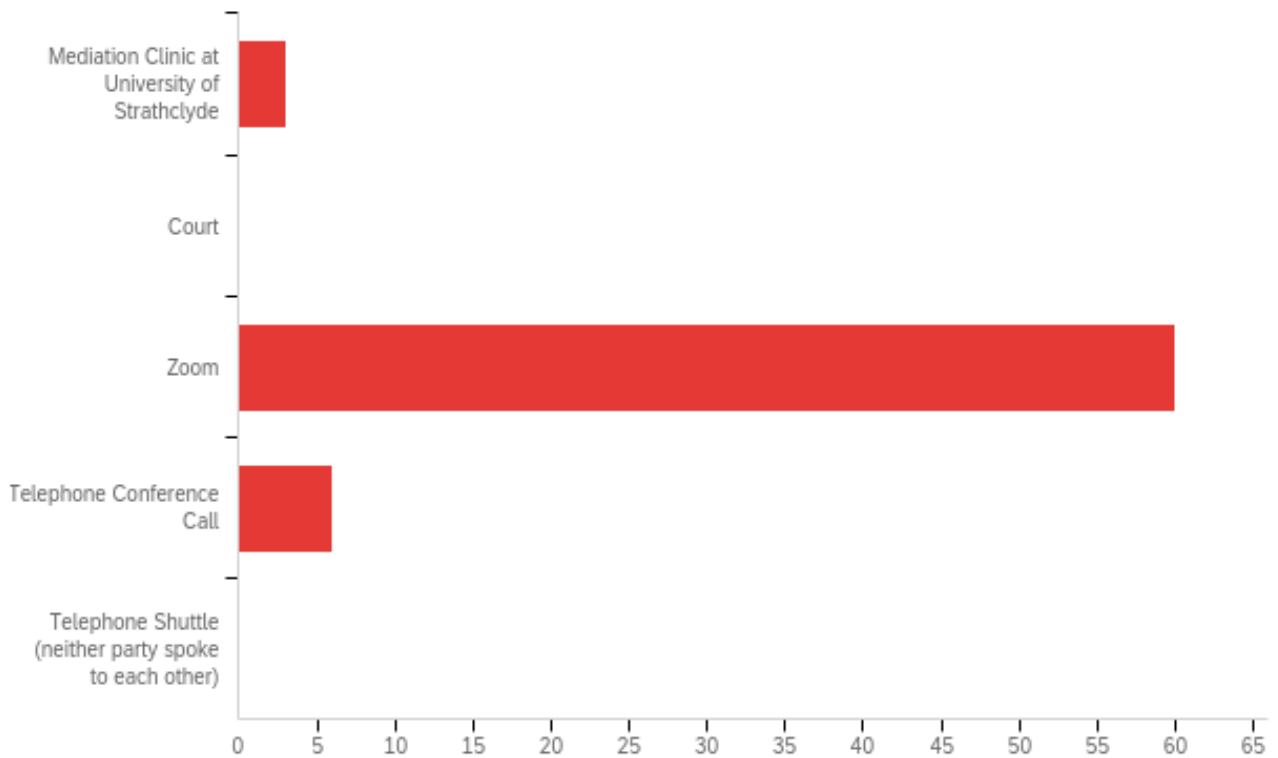
Q2 - Were you the Claimant or the Respondent in this action?



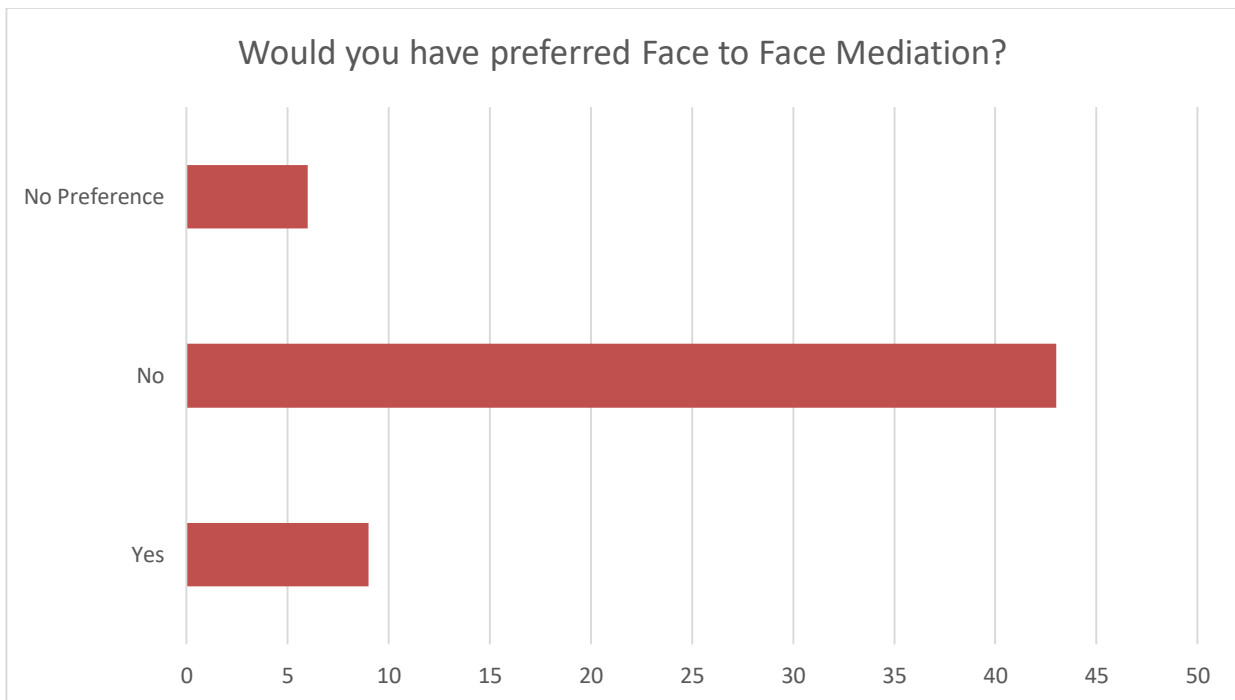
Q3 - Were you involved in the case as an individual or representative of an organisation?



Q4 - Where did the mediation take place?



Q5 - Would you have preferred a face to face mediation? If so why? If not, why did you prefer remote mediation?



I would have preferred face to face however zoom was effective and avoided the need to travel to a mediation session

Remote mediation was the only option, but it was successful.

Yes - would have liked to see and read the body language from the other parties.

Remote mediation was more convenient

Remote was fine and suited me as I was some 400 miles away.

Mediation was remote. Face to face would be better but, in this case, impractical.

Had thought I would have preferred face to face, but zoom was okay.

Remote mediation worked for us as I have mobility issues there home was more suitable

Remote. Easier. I thought that it saves time and money to have zoom.

No. No desire to meet claimant.

Yes. Prefer face to face.

I did not want to be in the same company as the respondent in case I got angry

I feel the zoom meeting worked just as well as a face to face would have.

Would have preferred face to face - small problems with IT issues. I feel it is better to meet face to face in situations like this.

More than happy to conduct mediation on zoom as it was easier to participate without travel and inconvenience.

No, zoom format worked well with breakout rooms.

I have experienced both face to face and zoom - either way gives the same results in my opinion so I am good with either

Over Zoom was suitable.

Remote mediation was excellent in that it did involve travelling, it was also conducted very well.

No, certainly more comfortable being in my own home and surroundings

I was comfortable sitting in my own home. It was easier to stay at home than travel to an outside venue which I would have found difficult.

I have no preference either way for online or face-to-face

Zoom was far more convenient for all and I suppose it also reduced travel costs to all etc.

Remote mediation was convenient & time saving

No. Parties in different locations, easier on Zoom.

no, Zoom was less intrusive

No. I preferred zoom as I didn't have to be in the same room as the responded - easier to organize

Preferred to remote mediation as unsure if Party B would have made effort to come to meeting

Due to COVID, and the logistics of arranging a meeting in Glasgow it was preferable to mediate by ZOOM.

Would have preferred face to face, easier for disingenuous behaviour to go unnoticed on-line

I preferred remote as I found the respondents intimidating in person previously and was more comfortable in my own home. I also felt it saved time and was more efficient on Zoom.

telephone was fine

Would have preferred face to face; the other party used to hiding behind a screen. This platform suited them very well. I am more of a face to face person.

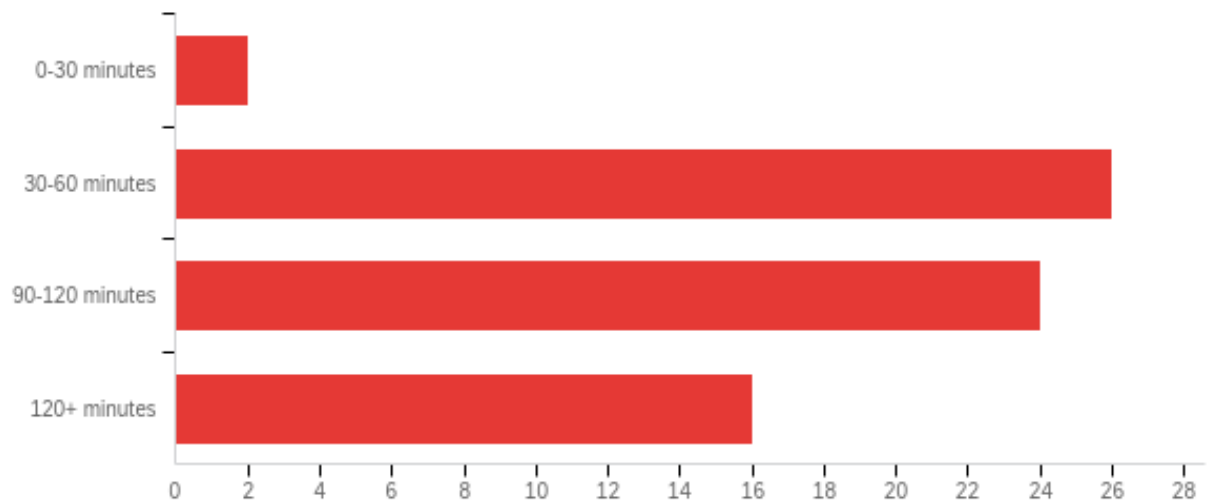
No. Online was great because no need to travel

Covid regulations

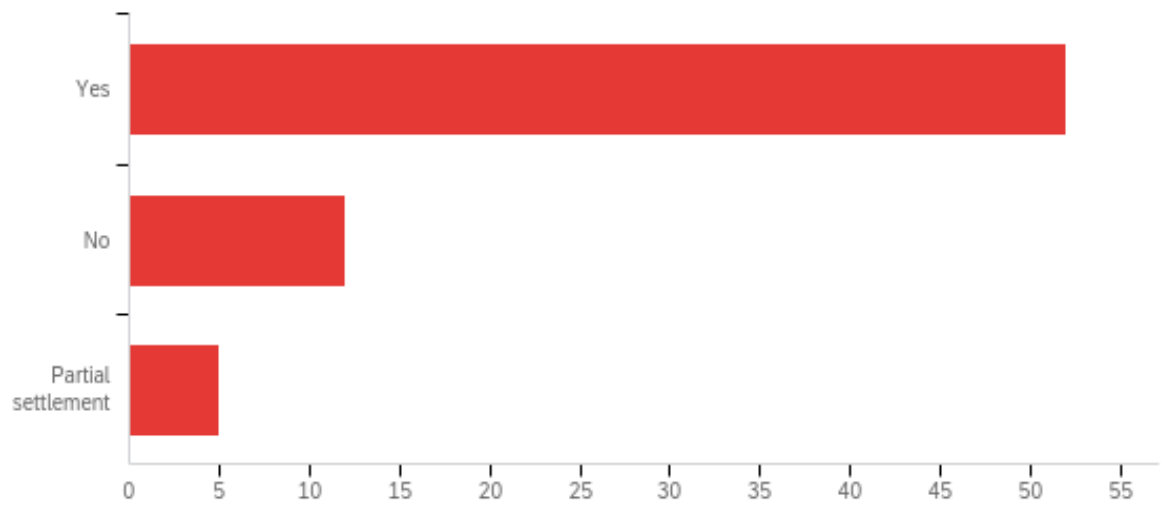
Virtual meeting via Zoom was convenient and efficient.

Don't mind either way

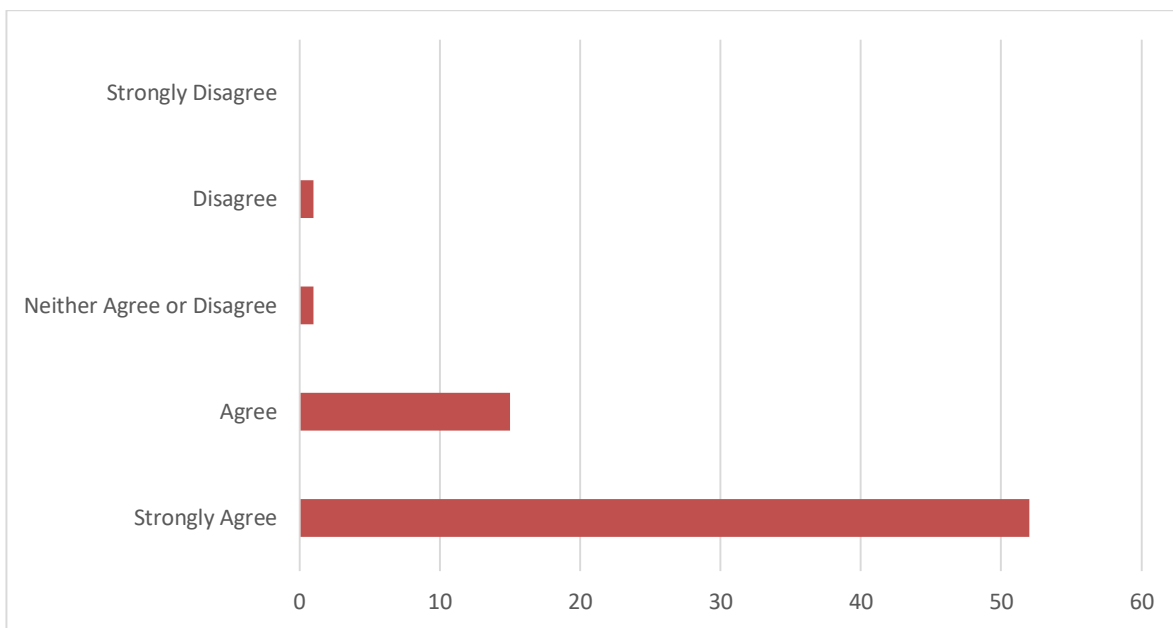
Q6 - How long did the mediation last?



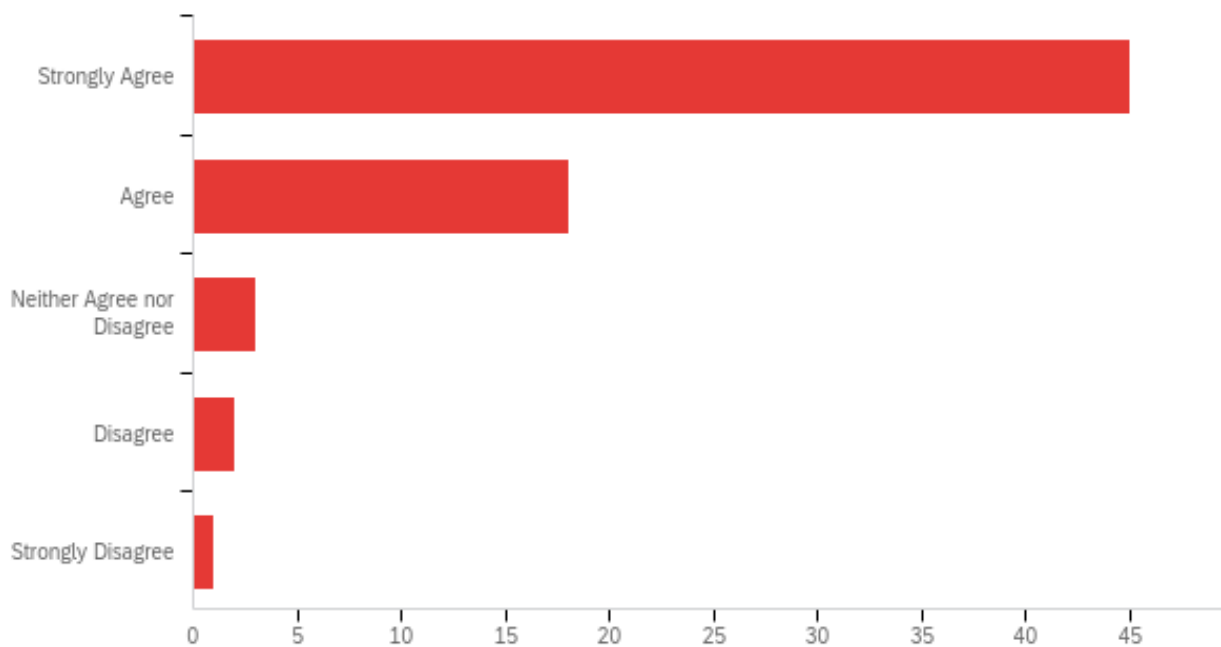
Q7 - Did the mediation result in a settlement?



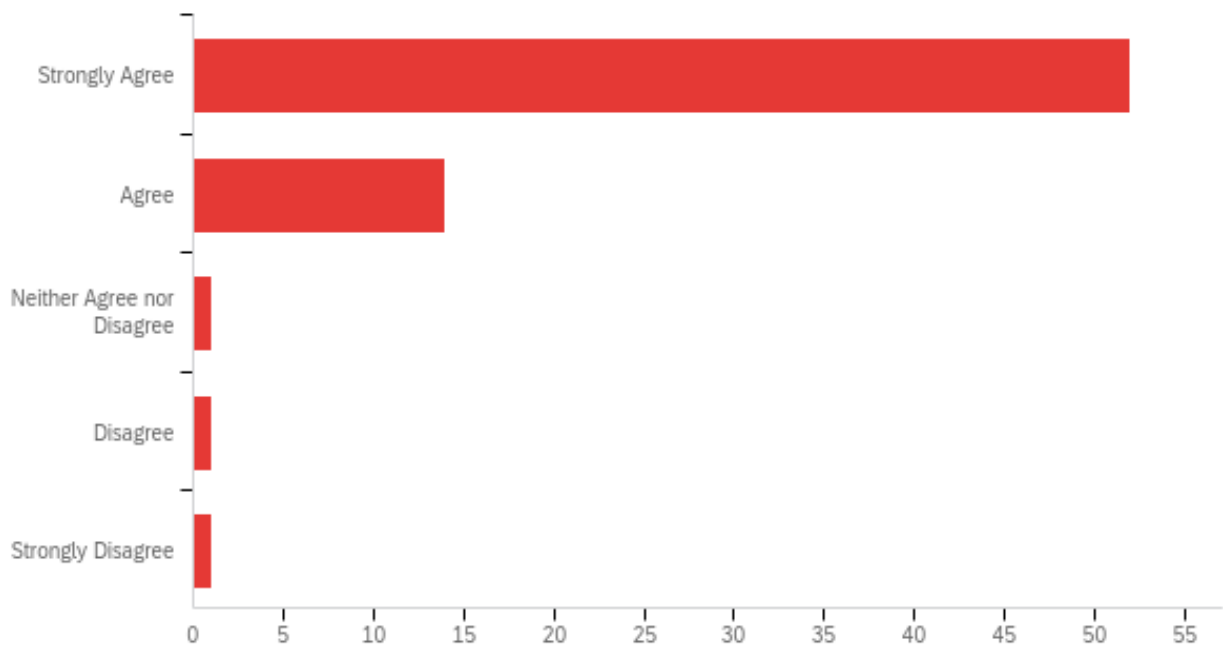
Q8 - The mediators clearly explained what is involved in mediation.



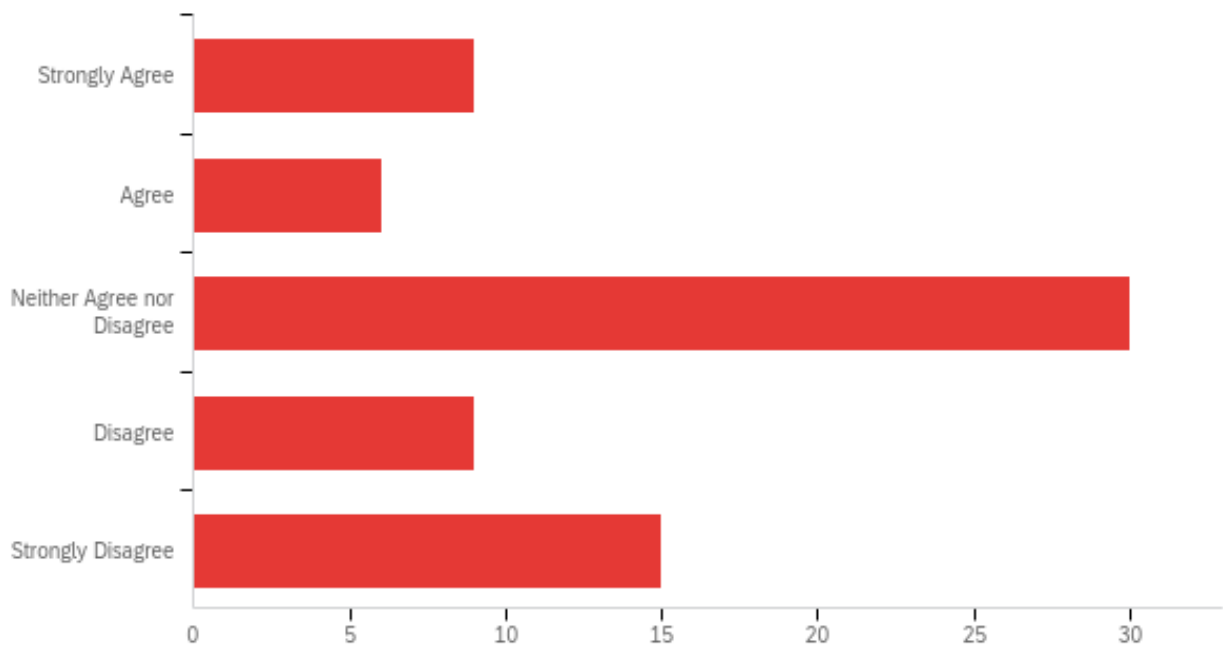
Q9 - The mediator(s) understood the issues I had to resolve



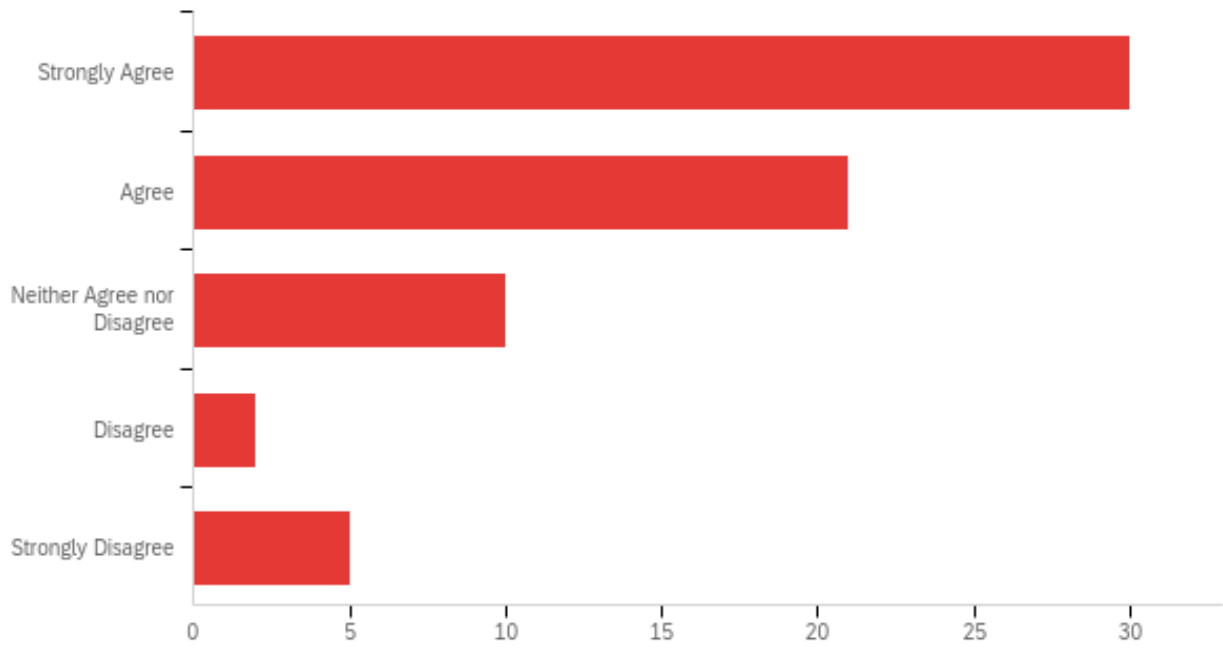
Q10 - The mediator(s) were fair and impartial



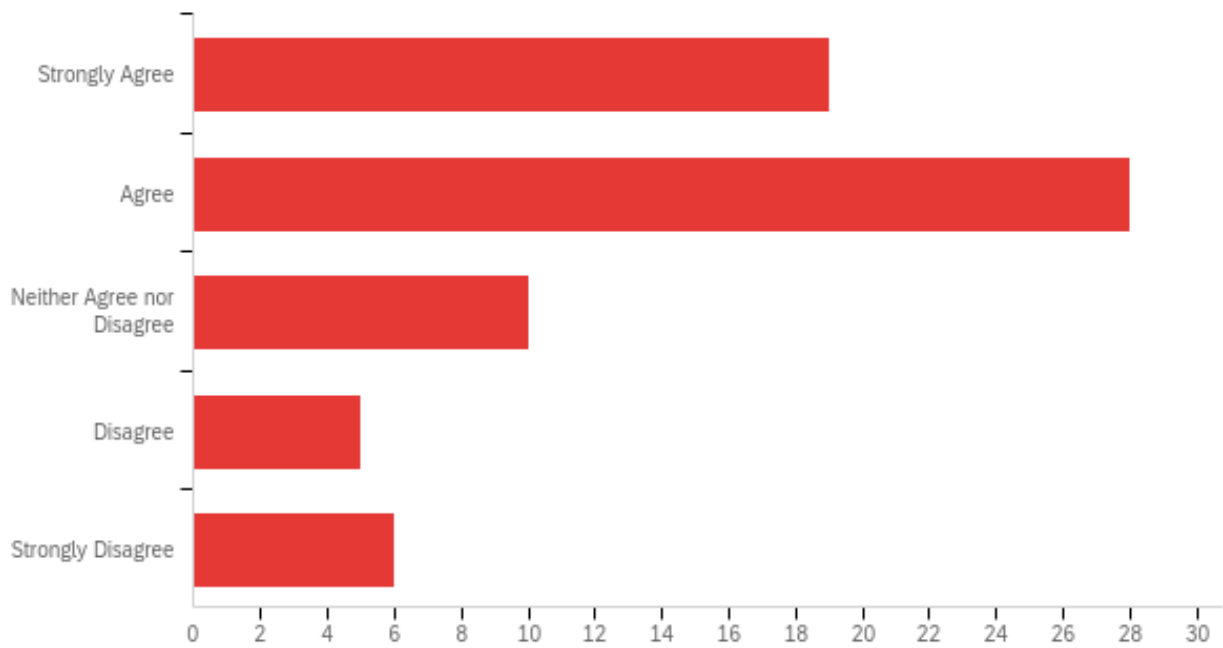
Q11 - Mediation has improved relations with the other party to the dispute.



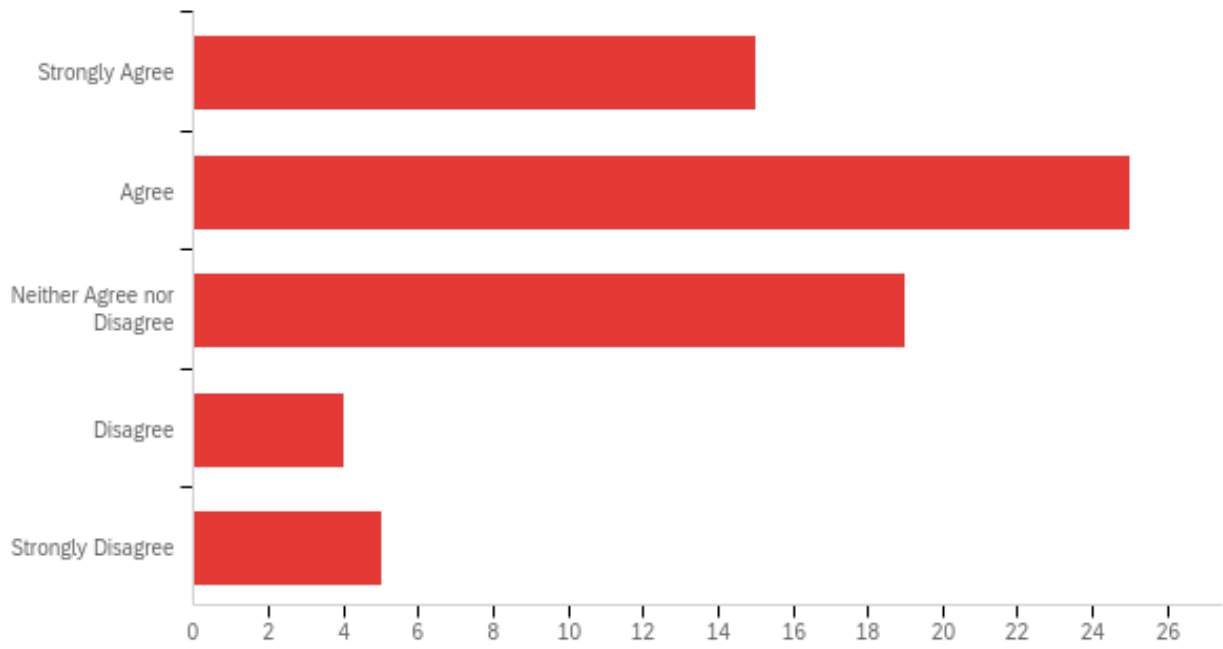
Q12 - Mediation was an efficient way to resolve my dispute(s).



Q13 - I/We were satisfied with the outcome reached in mediation.



Q14 - The outcome reached in mediation was fair.



Q15 - What were you hoping the mediation would achieve?

Payment for damage

The return of more of my money

An agreement to be reach before the case was heard by a sheriff

Just what the result was - an acceptance of responsibility.

Payment of the claim.

The result I got

To make my claim successful

Someone to understand my complaint

Truth

Payment of debt owed to me.

To resolve the matter without the need for a court hearing

Closure

That I would not have to pay the Claimant any money

Get the matter fully resolved.

compromise

A full refund for the faulty car that I bought last year

A settlement

Better shared understanding of our perspective

A more reasonable settlement figure than the claimant was demanding

Resolution of my complaint

That the respondent would own up to his errors

Was hoping to get car fixed

Resolved my issue before going to court

Fair settlement

Absolutely Nothing

I would be able to get my problem solved but other party was not willing to agree to terms

Removal of an irritation.

To return to me more of the finance given to the Respondent

A response to my court claim

Settlement of the issue without the need to go back to court. Opportunity to explain my issues with the respondents.

An apology and settlement

That the respondent would rectify the issue in question.

Compromise from both parties.

settle of the full amount owed to my clients

I was hoping the first respondent would have paid half as initially agreed. I accepted a forth to bring the matter to a close.

I wanted mediation to help resolve the issues, and for the outcome to put the issues to bed.

To retrieve rental payments owed

Financial settlement and completion of work

A resolution that was fair to both parties and negated the need to go to Court.

Ideally, full settlement of my claim including my costs

A resolve suitable to both parties

resolution of dispute

a settlement from the part of the defendant without the need of a hearing

Settlement of outstanding invoices

To get money back

A chance to resolve the issue and communicate.

To resolve our issue and it has been resolved

A compromise financial settlement and an apology from the respondent.

That the claim had no merit and was reflective of a disgruntled claimant with a history of disruptive behaviour and greed

A settlement before court action was necessary

For the case to be dropped

bringing issue to an end without the time involved in court proceedings

That the other party would realise how wrong their actions were instead of making poor excuses.

To put an end to the dispute without having to resort to court

A reasonable settlement - 66%of the claim

Resolution

Reaching an acceptable resolution to recover an outstanding debt, in a calm and objective environment.

I was hoping the issue would be settled

Q16 - What did the mediation achieve?

Half payment
The mediators understood my complaint
An agreement before the case went before a sheriff
An acceptance of responsibility in respect of ludicrous and illegal fees.
Payment of the claim
Compensation
Partial success
The respondents did pay the initial debt owed to me.
A resolution to the claim
Settlement
I only had to pay £800 out of the original claim of £4,800
Outcome still not resolved.
At least the respondent made an offer albeit below the price of the car.
A financial settlement Not a lot in terms of personal satisfaction
Compromise agreement
A more reasonable settlement figure
A little progress has been made.
We were able to put our points across and be heard.
Helped settlement / Fair settlement
Absolutely Nothing
It served that the gentleman admitted that defective materials were used but no solution to sorting the overall issue
Hopefully removal of an irritation
Nothing so far, as the Respondent still has not sent the money he agreed to send weeks ago.
It established that the respondent's lawyer had not read my court paperwork.
The mediation achieved an agreement with both parties to resolve the issue in question
Claimant was unwilling to move on their position. Unfortunately the mediation did not achieve much.
An offer was made however my clients wouldn't accept this.
A partial payment and hopefully better relationship between me as the claimant and the first respondent.
The mediation helped the meeting be conducted in a clear and concise manner, however the issues were not resolved.

Financial settlement and completion of work

We came to an agreement that both parties accepted and I am getting the contracted job completed.

Close to a full settlement but I bear the court costs arising from making the claim

A suitable resolve for all.

An agreement to settle invoices

Got a portion of money back

Speedy settlement, avoidance of legal costs and rescue

The result we were looking for

A settlement before court but for less than I had hoped.

A win for the Claimant

A settlement which was in my view better for the other part than for me. We have not spoken since. In some ways it did achieve closure.

an agreement over a financial settlement to end the dispute

A reasonable settlement - 40% of the claim

No resolution

Nothing

An agreeable resolution was eventually agreed, after much back and forth. I doubt it would have been possible to reach such solution without the Independent mediator. I am grateful to the mediators involved for their calm, objective and pragmatic facilitation of this process.

It did settle the case

Q17 - If you have any suggestions for ways to improve the mediation service that you received please write them in the box below.

No suggestions for improvement. The people working for the mediation centre were excellent and did everything they could to help me resolve the issues through mediation.

As a company we struggle with Zoom calls, Teams might be an option you could also consider

They were absolutely professional and brilliant

Timescale given for outcome to be complete.

The initial mediation was cut short as we ran out of time. The mediators should have realised that the timescale allowed was too short. The settlement was reached following further contact after the initial mediation meeting.

None. Charles was great. Very thorough and kept the meeting under control amicably.

Cancel Mediation & let the court do what it's paid to do.

Respondent should show mediation with respect. I could have spoken at length about damages claim if the respondent had read my court papers.

Possibly a check before the mediation session begins (possibly the day before) that the IT systems being used by all parties are working correctly i.e. enough band width to cope with the session.

Very happy with the way the mediation was conducted,

I was very happy with the service provided by Pauline and Victoria, I have no suggestions to improve this.

No I was very satisfied with the Mediation.

Really worthwhile and glad that things have progressed. I was put at ease by both mediators and Patrick was phenomenal. I am very grateful.

no, it was all very positive and Pauline is very reassuring and supportive

Really good tone of voice and well explained.

I was very happy with the service provided.

After payment was made the claimant did not fulfil his obligation to complete paperwork. I would have liked help to resolve this

I thought I would get to talk to the other party more. But everything went back and forth between us with only a short session face to face. I am grateful for the service but I found the whole experience horrible to tell you the truth! Even getting this email asking for survey completion is reminding me how stressful it was. Maybe even to tell participants that there will be a follow up x months later?

Was a good process

It was fine

No suggestions - we had a good experience.

The mediation process has been efficient, effective and relatively painless to use. My only suggestion would be whether it could be possible to speed up the process, in particular in terms of reducing the waiting time to arrange a mediation appointment. I appreciate this is, a question of resources and will be challenging to address.