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Issue 13

Mediation Matters!

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Editor: **Patrick Scott**

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Mediation Clinic
at University of Strathclyde

Editorial



Patrick Scott

Welcome to another issue of *Mediation Matters!*.

This issue goes international, where we focus on mediation in several different countries. Abel Uloko tells us about mediation practice in Nigeria, tracing its evolution from pre-colonial times to the present day, and concluding with some recommendations for reform.

Fergus Wong traces the development of mediation in Hong Kong, from the early 1980s to the present time. He discusses the introduction of the Mediation Ordinance in 2013 and compares mediation in Hong Kong to that in Scotland.

Following on a similar theme, Amandine Baconnet compares mediation in Scotland to that in France, highlighting the challenges which mediation faces in the latter jurisdiction. The practice of mediation in police stations is a novel idea, and an interesting extension of the use of mediation.

Ivor Heyman provides an interesting insight into a pro bono mediation scheme in Benoni, South Africa, where cases from the Children's and Family Court, or matters of domestic violence, are mediated. Ivor takes us through a typical day of participation in the scheme, highlighting the challenges and successes for the parties and the mediators.

On the more practical side of mediation, Alison Welsh discusses the role of pre-mediation meetings, and in *Research Reflections*, Gordon Murray provides insight into his dissertation on mediation which promotes the use of apologies.

We have the usual contributions, *From the Chair* and *Clinic News*. There is no *From the Director* in this issue, but readers are referred to Charlie Irvine's *Director's Report* which you will find in the *Mediation Clinic's Annual Report 2025* at the end of this newsletter.

In *Patrick's Ponderings*, I discuss whether motor car accident cases are suitable for mediation, and Robert Campbell has provided a glimpse of the *Scottish Legal Awards*, which were attended by some members of the Clinic. Alan Jeffrey, in *Mediation Mulligans*, discusses the enigma of 'single-issue conflicts', questioning whether any conflict can truly be reduced to a single issue.

My thanks once again to Adrienne, our assistant editor, for all her hard work in helping to compile this newsletter. I would also like to congratulate her on her recent milestone birthday, and I am sure that all members of the Clinic will join me in wishing Adrienne a happy birthday! I hope that you enjoy this issue and look out for the next one early in the new year.

Patrick Scott
Editor

Mediation Practice in Nigeria: Evolution, Strides, Challenges and Future Outlook

by Abel Uloko



Abel Uloko

Abstract

Mediation, as a central component of Alternative Dispute Resolution (ADR), has undergone a steady transformation within Nigeria's legal and socio-political landscape. Rooted in the traditional African ethos of communal justice, mediation in Nigeria developed as an informal, culturally embedded mechanism for dispute resolution before the disruption of colonial legal frameworks. Post-colonial Nigeria has witnessed gradual reintegration of mediation and ADR practices into its judicial system, culminating in statutory recognition through the Nigerian *Arbitration and Mediation Act 2023*. This article examines the evolution of mediation in Nigeria, tracing its pre-colonial foundations, colonial distortions, and subsequent institutionalization. Particular attention is given to the operation of court-connected mediation, the role of multi-door courthouses, and the challenges hampering fuller adoption. Finally, the article makes recommendations for reform, highlighting the need for judicial support, enhanced legal education,

strengthened institutional frameworks, and broader stakeholder enlightenment to ensure the consolidation of mediation as a viable, accessible and culturally resonant dispute resolution pathway in Nigeria.

Introduction

In Nigeria, conflict and disputes arise in diverse contexts – family, commerce, land tenure, politics and community relations. Traditionally, Nigerian societies had corresponding mechanisms for dispute resolution embedded in social structures, customs, and values. The colonial encounter, however, largely displaced these systems, subordinating indigenous conflict resolution under an adversarial Anglo-Saxon model. With the inefficiencies, backlogs, and adversarial pitfalls of litigation within the Nigerian judiciary, renewed attention has turned to mediation and other ADR tools.¹

This article investigates the evolution and development of mediation as a dispute resolution tool in Nigeria. It begins with an examination of traditional practices, highlights the impact of colonial legal impositions, and traces the re-emergence of mediation within post-colonial judicial reforms. It further analyses the Nigerian *Arbitration and Mediation Act 2023*, professional practices in court-connected mediation, and the role of ADR institutions. Thereafter, the article evaluates the types of mediation approaches within Nigeria and compares them to arbitration and conciliation. Finally, it identifies the central challenges impeding mediation's

¹ Umegbolu C, 'The LMDC Journey under the leadership of Mrs Adeyinka Aroyewun: A Transformational Leader' (2020) https://research.brighton.ac.uk/files/22191380/Manuscript_Episode_9_blogpost_.pdf

growth and makes recommendations for a stronger, more effective ADR culture in Nigeria.

Traditional Dispute Resolution in Pre-Colonial Nigeria

Before colonialism, Nigerian societies relied extensively on traditional methods for conflict management. These processes were community-oriented, consensus-driven and aimed at preserving social harmony rather than enforcing individual rights. Village elders, chiefs, religious leaders and family heads mediated disputes involving marriage, inheritance, land ownership and communal disagreements.²

Resolution relied on dialogue, storytelling, reconciliation rituals, and appeals to communal norms. The process resembled present-day facilitative mediation, emphasizing negotiation and problem-solving with an authority figure guiding discussions. Unlike adversarial litigation, the aim was not to determine winners and losers but to restore balance and communal cohesion.³

Impact of Colonialism on Dispute Resolution

The British colonial government introduced a formal, adversarial, common-law system that undermined indigenous methods of dispute resolution. Local mediation, arbitration by chiefs, and communal reconciliation were sidelined as inferior or 'customary,' often limited to minor cases or family disputes.⁴

Colonial courts prioritized procedural legality, written records and formal legal practitioners, displacing accessible, community-rooted dispute mechanisms. This created a disjuncture between the inherited legal framework and Nigeria's existing dispute resolution culture. However, customary methods never disappeared; many Nigerians still sought traditional mediation outside formal courts, especially in rural communities.⁵

Emergence of Mediation and ADR in the Judicial System

By the late 20th century, Nigeria's judiciary faced severe congestion, delays and rising costs of litigation. Inspired partly by ADR reforms in the United States and global legal policy shifts, Nigerian jurists and policymakers began reintroducing mediation and arbitration as part of the formal dispute resolution system.⁶

Before the advent of ADR, the Nigerian judicial system was in an undesirable state. Litigation remained the only government backed means of dispute resolution, and it established an adversarial culture in the consciousness of the citizenry by default. With population growth coupled with the increase of enlightenment and business activities, caseloads through litigation spiraled out of control.⁷

During this era, judicial caseloads were overwhelming, and judges could not cope with the pressure despite their best efforts. For instance, a judge in the Lagos State Judiciary

² Igwe IO, Udude KO and Constance OC, 'A Review of Continuous Relevance of the Traditional Methods of Dispute Resolution Mechanism in Southeast of Nigeria' (2020) 11 Beijing L.Rev. 34.

³ Umegbolu (n2).

⁴ Aderonke E Adegbite and Olusegun Michael Eluyefa "Challenges in examining African customary, colonial, and post-colonial jurisprudence" Published in International Journal of Civil Law and Legal Research, 2025, Vol 5(1), pp. 121-127.' . <https://www.civillawjournal.com/archives/2025.v5.i1.B.128>

⁵ ibid.

⁶ Adekunle TK, 'Nigerian indigenous courts and their dispute resolving mechanisms in global perspective' (2009) pp 1-10 Online at <https://aija.org.au/wp-content/uploads/2017/08/Adekunle1.pdf>.

⁷ Umegbolu (n2)

reported a thousand pending cases on her role, some of which had spent twenty-nine years in court. With unreasonable delays and an irredeemable backlog of cases confidence was lost in the system, and it also took a toll on the judges as parties were driven asunder even before judicial pronouncement. Hence, ADR was established against this backdrop, to assist the Lagos State judicial system, and Nigeria as a whole, in keeping up with global trends.⁸

ADR practice developed steadily through the establishment of special ADR centres, multi-door courthouses, and professional bodies. State High Courts began integrating mediation into pre-trial procedures, especially for civil matters like contracts, commercial disputes, labour issues and landlord-tenant conflicts. This institutional recognition culminated in the Nigerian *Arbitration and Mediation Act 2023*, which consolidated the legal basis for mediation within Nigerian jurisprudence.⁹

Legal and Institutional Framework

Nigerian Arbitration and Mediation Act 2023

The *Arbitration and Mediation Act 2023*, which repealed the *Arbitration and Conciliation Act*, Cap A18, Laws of the Federation of Nigeria, has given statutory recognition to mediation, unlike the previous law that only emphasized arbitration and conciliation. Before this development, most literature on alternative dispute resolution in Nigeria focused on arbitration, with little attention devoted to

mediation. The confidential nature of mediation, while a key advantage, has also resulted in the limited number of reported cases and scholarly works on the subject. Nonetheless, mediation is increasingly gaining ground globally, with trained private and public mediators actively employing the process to achieve faster, more efficient, and amicable resolutions of disputes without resorting to litigation.¹⁰

The *Arbitration and Mediation Act 2023* is a landmark piece of legislation, aligning Nigeria with global best practices in ADR. It provides:

- A legal foundation for the recognition and enforcement of mediated settlement agreements.
- Powers of Nigerian courts to refer disputing parties to mediation.
- Institutional support for voluntary and court-annexed mediation.
- A framework for cross-border enforcement of settlement agreements through provisions modelled on the UN Singapore Convention on Mediation.

This Act resolves previous ambiguities, streamlines mediation practices, and enhances the legitimacy of mediation for both domestic and international disputes.¹¹

Furthermore, unlike the previous act that contained provisions related to conciliation, Part II of the New Act introduces new detailed provisions relating to mediation of international and domestic dispute matters (Sections 67-87). The new Act, for example,

⁸ *ibid.*

⁹ E Onyema, 'The Multi-door Court House (MDC) Scheme in Nigeria: A case study of the Lagos MDC' (2013) SOAS Law Journal 1(1) 1.

¹⁰ Dairo TA, 'A New Mediation Regime for Mediation Providers in Nigeria: An Overview of Part II of the Arbitration & Conciliation Act, 2023' (2024) 6(1) African Journal of Law, Ethics and Education (ISSN: 2756-6870).

¹¹ 'Nigeria breaks new ground with its Arbitration and Mediation Act 2023' (Howard Kennedy, 26 August 2025) <https://disputeresolution.howardkennedy.com/post/102igrx/nigeria-breaks-new-ground-with-its-arbitration-and-mediation-act-2023>.

deals with the conduct of mediation, the immunity of mediators and confidentiality.

The new Act also provides for the enforcement of settlement agreements as a contract, consent judgement or consent award (Section 82(2)) and sets limited grounds to refuse enforcement.¹² The Act, although very new, brought a paradigm shift in the scope and legal nature of mediation as a means of alternative dispute resolution. Mediation in Nigeria is now statutory and upgraded within global best practices. Successful and effective implementation of Part B of the Act in practice will significantly enhance the culture of mediation within Nigeria's legal boundaries.¹³

Court-Connected Mediation

Professor Frank Sander's proposal for a comprehensive Justice Centre is an eloquent input to the idea of Court-Connected Mediation. The concept is based on the idea of a courthouse with numerous labeled doors, each representing a conflict resolution method, in addition to the existing window and labeled door known as litigation. The rationale for this approach is that ADR processes have long proven to be more efficient and expeditious in delivering justice to disputants. According to Professor Sander, the concept of a comprehensive Justice Centre will provide citizens with access to justice, and conflicts will be addressed in a variety of ways, including inside established courts.¹⁴

Several Nigerian states, including the Federal Capital Territory (Abuja) and Ondo State, operate court-connected mediation initiatives. These programmes typically refer civil or

commercial disputes to mediation before allowing full-scale litigation. The Lagos Abuja Multi-Door Courthouse, established in 2002, pioneered this model and operates as a template replicated across the country. In Ondo State, court-annexed mediation actively reduces case backlogs and improves access to justice, though it faces funding and logistical challenges.¹⁵

The Role of Multi-Door Courthouses and ADR Centres

The Lagos Multi-Door Courthouse (LMDC), established in 2002, was the first in Africa and remains Nigeria's most influential ADR centre. Multi-door courthouses provide multiple mechanisms, such as arbitration, mediation, conciliation and early neutral evaluation, under one institutional framework. They symbolize Nigeria's growing commitment to institutional ADR, reducing case burdens on judges and giving disputing parties flexible options.

In the opinion of Adeyinka Aroyewun, the former Director and Council Member of LMDC, the success of the LMDC has triggered a phase of replication of the model by various states in Nigeria, which established their MDC following the Lagos State Model, and even in states where there are no MDCs, there are different kinds of ADR Institutions and Mediation Centres.¹⁶

Types and Approaches to Mediation

Nigeria's mediation practice employs diverse approaches:

¹² <https://www.acerislaw.com/arbitration-in-nigeria-the-2023-reform/>

¹³ Dairo (n11).

¹⁴ Oyeniyi A, 'The Concept of Multi-Door Courthouse in Nigeria: Rethinking Frank Sander's Concept' (2014) Available at SSRN 2525677.

¹⁵ *ibid.*

¹⁶ Umegbolu (n2).

Facilitative Mediation: The mediator structures discussions but does not impose solutions. This mirrors traditional communal mediation.

Evaluative Mediation: The mediator provides assessments and recommendations, often employed in commercial or technical disputes.

Transformative Mediation: Focuses on empowering the parties and fostering mutual recognition used in restorative justice and community disputes.¹⁷

Narrative Mediation: Encourages disputants to reframe their conflict stories, a model resonant with Nigeria's cultural traditions in oral storytelling.¹⁸

Comparison with Other ADR Mechanisms

Arbitration is more formal, adversarial and results in binding awards, resembling private litigation.

Conciliation is like mediation but involves a more interventionist conciliator who may propose settlement terms.

Mediation, by contrast, emphasizes voluntary participation, party autonomy, and durable consensus. Its informality and flexibility make it accessible and culturally compatible for Nigerian society.¹⁹

Challenges Facing Mediation Practice in Nigeria

Despite progress, mediation in Nigeria faces several obstacles.

Funding Constraints: ADR programmes are underfunded, limiting personnel, training and infrastructure.

Low Awareness and Weak Legal Research: Many Nigerians, including practitioners, are unfamiliar with mediation processes and benefits.

Resistance from Lawyers and Litigants: Nigerian legal culture perceives litigation as a measure of professional success. Many lawyers fear income loss if clients settle quickly in mediation.

Operational Challenges: Court-annexed mediation often suffers from poor case screening, delays in referral, and inadequate enforcement of settlements.²⁰

Transferable Lessons for Improving Mediation in Nigeria

Nigeria can draw lessons from successful ADR systems worldwide, emphasizing:

- Strong judicial support and consistent referral practices.
- Professionalized mediator training and accreditation.
- Integration of mediation into law school curricula.
- Broader community-based ADR awareness campaigns.²¹

Policy Recommendations and Future Outlook

- *Enhancing Judicial Support and Autonomy:* Courts should integrate clear procedural rules for referral to

¹⁷ Dike S, 'Transforming mediation and conciliation practices for effective dispute resolution in Nigeria' (2020) 12(1) SC; Dike, Boma Geoffrey Toby, and Dorcas F Elekima (2020). Transforming Mediation and Conciliation Practices for Effective Dispute Resolution in Nigeria. *Journal of Property Law and Contemporary Issues* 230.

¹⁸ Igwe (n3).

¹⁹ Nivveditha Gurumoorthy 'Difference between Arbitration, Conciliation and Mediation' Nov 2023 TaxTMI <https://www.taxtmi.com/article/detailed?id=12071>

²⁰ Oluwafisayo Ayita 'Mediation practice in Nigeria: experiences from Abuja and Ondo with lessons from Ontario, Canada' 2025 Master's Thesis, University of Manitoba, Winnipeg, Canada <https://mspace.lib.umanitoba.ca/items/eed9f0e6-078e-4d55-a8e6-91d376c43d51>

²¹ Oluwafisayo (n21).

mediation, backed by financial independence for ADR units.

- *Legal Education and Research:* Law schools must embed mediation theory and simulations into curricula while encouraging empirical ADR research.
- *Procedural Reforms:* Mandating mediation for certain categories of civil disputes can help normalize its use.
- *Stakeholder Enlightenment:* Public campaigns should promote mediation as affordable, efficient, and culturally consonant.
- *Professional Accreditation:* The growth of accredited mediator associations will improve quality control and stakeholder confidence.

If implemented, these recommendations will consolidate mediation as a sustainable dispute resolution mechanism, aligning Nigeria's legal system with its cultural heritage while addressing modern demands for speedy and cost-effective justice.²²

Conclusion

Mediation in Nigeria reflects a dynamic engagement between tradition, colonial legacy, and contemporary legal reforms. Pre-colonial societies employed mediation-like practices deeply rooted in communal philosophy, but colonial imposition marginalized them. Contemporary

developments, culminating in the *Arbitration and Mediation Act 2023*, signify a full legal revalidation of mediation's role within Nigeria.

Nonetheless, the practice faces considerable challenges linked to low awareness, resistance from legal professionals and institutional shortcomings. Strengthening judicial support, integrating ADR in legal education, reforming court procedures and raising public awareness remain critical. By embracing mediation's cost-effective, culturally resonant and party-driven attributes, Nigeria can improve access to justice, reduce court congestion and build a more reconciliatory legal order for the future.

Abel Uloko is a registered mediation practitioner at Scottish Mediation with over 29 years of experience in ADR. He has a Master's degree (LLM) in Law and Dispute Resolution with Distinction from Robert Gordon University, Aberdeen. As a member of the Chartered Institute of Arbitrators, UK, Abel brings a wealth of expertise to the field. Abel practises as the Chief Operating Officer at Salem Mediation Clinic. He also serves as a mediator at Strathclyde Mediation Clinic, and Glasgow and Grampian Community Law Centre, Robert Gordon University, Aberdeen.

²² Ojo, D. G. Strengthening the Synergy between Alternative Dispute Resolution (ADR) and the Judicial System: Enhancing Collaborative Justice in Nigeria. Academia.edu https://www.academia.edu/107120040/Strengthening_the_Synergy_between_Alternative_Dispute_Resolution_ADR_and_the_Judicial_System_Enhancing_Collaborative_Justice_in_Nigeria

How to Foster a Culture of Mediation – The Case of Hong Kong

by Fergus Wong



Fergus Wong

Similar to how Scotland is a separate jurisdiction from the rest of the UK, Hong Kong is a separate jurisdiction from the rest of China. On top of that, the government of Hong Kong has considerably more power over policymaking than the scope of devolved matters in Scotland.¹ This high degree of autonomy has enabled the city to retain its then existing legal system – one that was heavily modelled after the one in England and Wales. Even after British rule of the territory had ended in 1997, it prevailed as one of the few Common Law jurisdictions in the region without assimilating itself into mainland China's Civil Law system. As with most places that share Common Law heritage, court cases are largely adversarial by nature. Mediation, however, is a mechanism that has been endorsed by all three branches of the government in Hong Kong.² Legal professionals in Hong Kong are also more receptive to mediation than their Scottish counterparts.³

What has contributed to such a favourable landscape for mediation in the city?

The Mediation Landscape in Hong Kong

During my employment in a legislator's office in Hong Kong, I liaised with government departments in times of community disputes or dissatisfaction with public services. For most people, the first person who comes to their minds whenever they need advice would be the legislators of their constituency (think of how one would approach an MP whenever something problematic happens, regardless of whether or not it is of a litigious nature). I remember handling cases where people disagreed with their neighbours on how their ancestral land was to be divided, or people who wanted compensation from public hospitals for medical negligence. Realistically speaking, most people are just too occupied with their lives to spend time in court, where they may be overwhelmed by the bureaucracy.

In Hong Kong, legislators are seen as respectable high-status people, and they (and their staff members) sometimes play a quasi-broker role between parties in dispute, facilitating contact and negotiation between them. In other words, the use of mediation in Hong Kong is more common than one may think, albeit that it often takes a less structured or institutionalized form.

¹ A prime example is that Hong Kong has its own monetary policy and issues its own currency.

² This article has been inspired by Alexander's analysis on Hong Kong's development of mediation, see Alexander, Nadja Marie, (2018) Hong Kong: Mediation and the Future of Dispute Resolution. Available at SSRN: <https://ssrn.com/abstract=3757372> or <http://dx.doi.org/10.2139/ssrn.3757372>

³ To understand the attitude of the Scottish legal system towards mediation, see Irvine, C. (2017). In N. Alexander, S. Walsh, & M. Svatos (Eds.), EU Mediation Law Handbook: Regulatory Robustness Ratings for Mediation Regimes (pp. 659–695). Alphen aan den Rijn, Netherlands: Kluwer Law International B. V., Available at SSRN: <https://ssrn.com/abstract=3786862>

Established in 2013 by various representatives from the legal profession, the Hong Kong Mediation Accreditation Association Limited (HKMAAL) has been recognized by the government as providing trusted accreditation, despite lacking statutory status.⁴ As in Scotland, one is required to complete a 40-hour training programme before being accredited, and must comply with their annual Continuing Professional Development (CPD) requirements, whilst also adhering to relevant codes of conduct to retain their membership after accreditation.⁵

Many businesses in Hong Kong have signed the Mediation First Pledge, promising to prioritize the use of mediation in situations like workplace conflicts and trade disputes. However, it is also worth noting that many businesses would still prefer the use of litigation over ADR, especially large corporations with legal advisors and the cash to raise an action.⁶ For the general public, mediation has long existed in the form of brokerage of disputes by village elders or respectable individuals. Moreover, the confidentiality element of modern mediation is seen as ideal by the public when the Chinese culture of shame and face-saving comes into play. In general, mediation is increasingly an accepted mechanism for dispute resolution after more than a decade of institutionalization and public education.⁷ Its course of development can roughly be divided into two phases, each categorized by its

unique impetus behind the push for mediation development.

From Institutional Efficiency to Strategic Concerns

The first period starts from the early 1980s and ends in the early 2000s. In the 1980s, the city had witnessed an increase in the need for dispute resolution in different areas. As the post-war baby boom had come to an end and modern conceptions of marriage began to replace traditional Chinese family values that enshrine tolerance, there was a surge in the number of divorces, contributing to a rise in legal actions concerning finances and child maintenance. This period also sees post-war buildings in this extremely densely populated city starting to deteriorate, contributing to a growing number of disputes regarding property maintenance. The same period also witnessed the construction of the city's state-of-the-art airport. With such a significant project in mind, mediation clauses were included in the construction contracts, which spearheaded the use of such mechanisms in future government contracts.

All the issues mentioned above had prompted the government to explore mediation and arbitration as a means to divert some of the court cases, as well as to keep itself aligned with other Common Law jurisdictions at the time, which were also investigating the effectiveness of mediation. At the same time, non-government entities, such as charities and churches, had begun to look into mediation in

⁴ Legislative Council Panel on Administration of Justice and Legal Services - Review of the Mediation Regulatory Regime. Retrieved from <https://www.legco.gov.hk/yr2025/english/panels/ajls/papers/ajls20250602cb2-1027-4-e.pdf>

⁵ See website of Hong Kong Mediation Centre. Retrieved from <https://www.mediationcentre.org.hk/en/mediators/Become.php>

⁶ Video (in Cantonese) of the head of the Hong Kong Mediation and Arbitration Centre expressing how the business sector in Hong Kong remains reliant on litigation in resolving conflict. Retrieved from <https://www.youtube.com/watch?v=MXtvVN84z5A>

⁷ See the Judiciary's Mediation Figures and Statistics. Retrieved from https://mediation.judiciary.hk/en/figures_and_statistics.html#msfcjrrc

resolving family and community disputes. Whilst these disputes are still relevant triggers of mediation today, their relevance to the trajectory of mediation in Hong Kong has faded since they have been overshadowed by the macro need to complement China's strategic goals.

The second period can be seen as beginning in the 2000s and continuing to the present day. When China acceded to the World Trade Organization in 2001, Hong Kong was already a founding member of the Organization. Hence, mainland China has long regarded Hong Kong as a portal to international markets with established connections and a matured legal system trusted by investors abroad. To tap into the potential of the massive Chinese market and to better facilitate China's strategic objectives, the government had elicited much experience from the numerous pilot mediation projects carried out over the past two decades and initiated the Civil Justice Reform in 2009.⁸ The reform outlined the necessity for speedy and cost-effective court procedures, and could be seen as a milestone which paved the way for ADR to be recognized as a proper mechanism in Hong Kong.

In 2013, the legislature of Hong Kong had passed an Act called the *Mediation Ordinance*, defining the features of mediation.⁹ With clauses that impose cost sanctions to parties who failed to "reasonably engage" in mediation when required by the court, mediation is now de jure a part of the court system, similar to that in England and Wales. The *Apology Ordinance* which came into effect in 2017 also encourages parties in dispute to

admit fault without the fear of being held liable.¹⁰ These are all efforts made to ensure that the legal structure is suitable for mediation to thrive.

Over time, mediation became the preferred type of ADR when dealing with cases involving parties from mainland China for the simple reason that mediation acts as an effective interface between jurisdictions of different legal systems, whereas arbitration would fall short of becoming such a coupling instrument. This is even more relevant as China launched its *One Belt One Road* Initiative, involving a multitude of overseas trading and contracts. Hong Kong's existing legal infrastructure is very attractive for Chinese businesses to settle their disputes with foreign parties, for example in the area of Intellectual Property. The recent opening of the International Organization for Mediation in Hong Kong in May 2025 is further proof that Hong Kong remains committed to developing cross-border mediation.

What can Scotland Draw from the Experience?

In conclusion, Hong Kong has a legal infrastructure that deliberately favours mediation, while simultaneously having the strategic needs of the Chinese government as a top-down force to push for its development. In other words, it takes a supportive framework and a strong impetus for any jurisdiction to establish mediation as an attractive alternative to litigation. Scotland could make good use of mediation when resolving conflicts involving parties from other jurisdictions in the UK and beyond, though the attitude of the court and the legislature would

⁸ Civil Justice Reform of Hong Kong. Retrieved from <https://www.civiljustice.hk/eng/home.html>

⁹ Mediation Ordinance (Cap. 620). Retrieved from Hong Kong e-Legislation website <https://www.elegislation.gov.hk/hk/cap620>

¹⁰ Apology Ordinance (Cap. 631). Retrieved from Hong Kong e-Legislation website <https://www.elegislation.gov.hk/hk/cap631>

be crucial in achieving this. Mediation may have great potential as a coupling mechanism in a post-Brexit world for cross-border dispute resolution as a result of Scotland's unique mix of Civil and Common Law heritage.

Fergus Chun Yin Wong started working as a project assistant at a legislator's office in Hong Kong, dealing with community disputes. In 2023, he completed an MLitt degree in Peacebuilding and Mediation at the University of St Andrews and joined Strathclyde Mediation Clinic in 2024 as an assistant mediator.

Mediation in France: Slow Integration and New Practices

by Amandine Baudais Baconnet



Amandine Baconnet

Being French, when I completed my mediation training in Scotland, I wondered about the implications and application of what I had learned. The first thing that came to mind was the impossibility of accurately translating the word 'willing' which we were advised to use in training. The absence of an accurate equivalent to the word 'willingness' in French is an indication of the judicial culture of France.

I had never heard of mediation before applying to study at the University of St Andrews, which is a good indication of the attitude to alternative dispute resolution in the French legal system. As my comparative law professor would say, the French simply do not have alternative dispute resolution in their judicial tradition. Then again, he is a law professor and a practising attorney, so maybe I shouldn't take his word for it – he might just be batting for his own team!

The practice of mediation exists in France, although it is less developed than in other countries. Mediation in France follows a Girondin mentality; it is not centralized under a single charter or organisation but disseminated around the country into associations and organisations with varying conceptions and procedures for mediation.

Playing Catch-up: Similarities to Mediation in Scotland

Mediation in France follows a similar route to mediation in Scotland, as it takes place as an alternative to court proceedings. Judges will suggest mediation to parties either in court proceedings or in appeals. At present, it seems that mediation is utilised much more in appeals than it is in courts of first instance.

Once the judge has suggested mediation as an alternative dispute resolution mechanism, the court will send both claimants and respondents to contact whichever mediation association the specific court works with. Once contact is established, each association has its own procedure on how to arrange the mediations. The association I contacted, for example, does not have any pre-mediation meetings with the parties.

The mediation will take place in the form of a joint meeting in person at the courthouse and will be conducted by a team of three mediators. For this type of co-mediation, the mediators decide who will open the meeting with introductory remarks and who will likely close the meeting. It is not standard practice to appoint a lead mediator in co-mediations.

New Practices: Mediating before Court

France has been reasonably slow in implementing mediation as an established alternative to arbitration; however, it has been introduced in certain areas. A new emerging practice which we could take inspiration from is the use of mediation in police stations. In Paris, in two arrondissement police precincts, those of the 15th and 20th arrondissements, mediation is practiced prior to any judicial proceedings.

When a complaint is made at any police station in these two precincts, it is considered by the commissioner, who reviews all incoming complaints, and those cases that are deemed suitable for mediation, are referred to the CMFM¹, their partner association.

Complainants and respondents are invited to participate in mediation by both the commissioner and the association, but it is voluntary.

Once a mediation is completed, regardless of the outcome, the complainant is entitled to either withdraw or continue with their complaint. The complainant may be seeking compensation for damages and may want to persist with the complaint. If the mediation is successful, a settlement agreement is prepared and signed by both parties as a legal disposition.

With mediations having an 80% success rate, the commissioners of both precincts have noticed an improvement in neighbourhood relations and generally a better and more cooperative environment in their neighbourhoods.

A Path Forward: The National Mediation Assembly

In 2021, the then Minister of Justice opened a National Mediation Assembly (CNM) to call for a public document defining the practice of mediation and a pedagogical film to explain alternative dispute resolution mechanisms to improve the national understanding of mediation.

The Assembly's ethical framework is grounded in Article 21-6 of Law No. 95-125, which was updated in 2021. It relies on two pillars – process integrity and mediator integrity –

which cover the basis of what we know as the principles of mediation.

The resulting document introduced a five-axis competency framework to: understand mediation's social and legal role; master oral and written communication; conduct the mediation process; uphold ethical standards; and develop reflective practice.

The aim of the document is to create a path towards a centralised and common conception of mediation and mediation training, with clear practice criteria. The recommendations for training include 50% practical learning, to be conducted in small groups and to include mentorship and supervision programmes as part of professional development.

Recommendations

The recommendations made by the Assembly include a range of policies from fixed mediator remuneration (3 hours at €256), the support for a restructuring of alternative dispute resolution in the Civil Procedure Code to clarify the distinction between mediation and conciliation, and the encouragement of the development of mediation orders and information meetings.

Currently, mediation is still a voluntary practice in the judicial field in France. Only mediators in commercial matters are entitled to remuneration. The campaign for a fixed rate of remuneration to be introduced for mediators is embedded in the policy document and the Assembly's aim is to professionalise and democratise the practice of mediation in France.

Promoting Mediation

As part of this ambitious project to put mediation on the judicial map in France, the

¹ Centre de médiation et de formation à la médiation (Mediation and Mediation Training Centre).

Assembly and the associations who participated in it also propose the dissemination of information and education processes for all actors in the field.

One such suggestion is the creation of a portal linking all mediation actors, with characteristics resembling that of the Scottish Mediation website. Further educational and communication programmes will include a National Mediation Day modelled after the *Access to Justice Day*, and the integration of mediation in schools and higher education curricula, on the model of peer mediation for younger students and with more comprehensive training for university students.

Toward a Cohesive and Credible Mediation System

The CNM's recommendations mark a turning point in France's mediation landscape. By aligning ethical standards, training, accessibility and evaluation, France is looking to position mediation as a central pillar of

modern justice. The next challenge is the implementation and impact assessment of mediation. Mediation in police stations is a relatively new practice, and long-term impact cannot yet be accurately measured. Furthermore, the current instability of the French government has put a drain on resources, which impacts such ambitious projects as this one. Perhaps the French government could benefit from mediation!

Amandine Baudais Baconnet is currently a Master's student, studying European Judicial Culture in Paris. She trained in mediation during her MLitt in Peace Building and Mediation at the University of St Andrews. Amandine is a registered mediation practitioner, offering remote services to clients in Scotland as a member of Strathclyde Mediation Clinic and the Edinburgh Sheriff Court Mediation Service, and is looking to expand her work in mediation in France.

A First-hand Account of Mediating in the Benoni Magistrate's Court Pro Bono Programme in South Africa

by Ivor Heyman



Ivor Heyman

When I arrive at the Benoni Magistrate's Court¹ on the first Wednesday of the month, the forecourt is already alive with quiet anticipation. By 08:30, I meet the Project Manager and the other mediators. We sign the register – later sent to the South African Association of Mediators for continuing professional development allocation – and exchange a few words of encouragement. There's always a mix of seasoned mediators and aspiring ones under supervision, and the atmosphere is collegial, though tinged with the gravity of what lies ahead.

By 09:00, mediations are underway. The day stretches ahead until 15:00, though the real shape of it depends on how many cases the magistrates have referred to us and how long each one takes. Every matter is different, and the pace is set not by us but by the people who come seeking resolution – often after waiting weeks for their turn to be heard.

The Nature of the Cases

The cases are almost always from the Children's and Family Court or matters of domestic violence. Some are about contact

arrangements or primary residence; others involve parental alienation. The documents we work with – parental rights and responsibilities forms, parenting plan agreements – are not just paperwork; they become part of the official case file, carrying the weight of law. Every word must be neat, every correction avoided.

Before anything begins, both parties sign the standard South African Association of Mediators Agreement to Mediate. It's our role to explain what mediation is and to remind them of its voluntary nature. Sometimes, despite our best efforts, one or both parties decline. In those moments, we hand the case back with the proper form, and it returns to the magistrate's roll.

Inside the Mediation Room

When parties do agree, we settle into the small, court-provided space. Privacy is limited but precious. The stories spill out – fractured relationships, fears for children, bitterness over past hurts. My task is to hold the space steady, neutral, and professional. On some occasions, two hours feels just enough to reach agreement. On others, time evaporates: missing documents, absent stakeholders, or the need for a Child Participation Report can halt progress. Then the magistrate postpones the case, and it reappears on the next pro bono day.

The unpredictability of intensity is part of the work. Magistrates send what they choose – sometimes straightforward matters, other times deeply entrenched conflicts. There's no

¹ Benoni is located in Gauteng, South Africa, approximately 26 kilometres East of Johannesburg.

filter for complexity. What grounds me is the awareness that, regardless of outcome, our presence relieves the crushing caseload of the court and offers families at least a chance to speak and be heard.

The Human Element

What stays with me most are the clients themselves. Many earn less than sixteen thousand rand² a month combined, which is why their cases qualify for this programme. They come carrying months – sometimes years – of frustration. Respect is essential: respect for their time, their stories, their hopes that the system will help them.

The work demands efficiency. We cannot linger indefinitely on one case, because each hour spent is an hour denied to another family waiting outside. Yet efficiency cannot come at the cost of compassion. The art of this programme is to balance both – to move steadily while still adding real value to people's lives.

Working with Supervisors and Trainees

For aspiring mediators, the programme is a proving ground. They sit alongside qualified supervisors, learning not just techniques but the intangible skills of patience, neutrality and careful documentation. Supervision is formal: it follows the standards of the National Accreditation Board for Family Mediators, and for those guiding trainees, there is satisfaction in knowing they are preparing the next generation of mediators.

I've seen first-hand how these roles benefit everyone. Aspiring mediators gain vital case experience. Accredited mediators maintain their professional standing through continuing development. And most importantly, families

get access to a process they could not otherwise afford.

The Flow of the Day

By late morning, the rhythm sets in. One case closes, another opens. Notes pile up, handwritten carefully with my own stationery, since computers aren't permitted for security reasons. By afternoon, the emotional weight builds. Some mediations end in fragile agreements, others in stalemate. Each outcome is documented – Form 6 for the statement of outcome, Form 8 for the parenting plan registration, Form 10 certifying the plan was mediated. These forms, placed back in the court file, tie our efforts into the official machinery of justice.

By 15:00, the day winds down. Those who've completed their cases head out. Others linger to debrief with supervisors or colleagues. There's a shared sense of contribution – of having carved out small but meaningful resolutions in a system strained to its limits.

The Bigger Picture

The programme has been running since 2017. It began in Benoni, then expanded to Pretoria North and Germiston. Over time, processes have been refined but the principles remain steady: professionalism, accessibility and service. Mediators who complete accreditation are expected to give back four months of service, though many stay longer, drawn by the value of the work itself.

The WhatsApp group keeps us connected, letting us know each month's caseload and confirming who is available. It's a practical lifeline but also a community, a reminder that we are not alone in this demanding work.

² About £690 at current exchange rate.

Closing Reflections

To mediate here is to stand at the intersection of law, humanity, and service. It is not glamorous – there are no guarantees about the quality of cases, and the spaces are far from ideal. But there is dignity in the effort. We step into conflicts that might otherwise consume months of court time and help families find solutions they can live with.

It is demanding, often draining, but always meaningful. Each month, I walk away with a quiet sense of having done something tangible – not just for my own accreditation, but for people whose lives are often weighed down by conflict and circumstance.

That, to me, is what it is like to mediate in this programme.

Ivor Heyman is an Advocate of the High Court in South Africa, admitted to practice law in South Africa, the United Kingdom and New York. He is accredited as a High Court Mediator by the ADR International Register and has completed extensive training in family, workplace and statutory mediation. Ivor has mediated over 50 court-referred cases in Washington, DC and contributes to the Pro Bono Mediation Programme at Benoni Magistrate's Court. His practice combines commercial litigation, mediation, and a strong commitment to accessible justice.

The Role of Pre-mediation Meetings

by Alison Welsh



Alison Welsh

The role of pre-mediation meetings in a mediated dispute is often supported as a positive step in the mediation process, with pre-mediation meetings having been described as an essential part of the mediation itself, with a belief that contact prior to the mediation can help pave the way for effective resolution.

During a recent Mediation Clinic workshop, we asked participants to consider the benefits of pre-mediation meetings in the mediation process and to consider any negatives or concerns. The overwhelming feedback was that mediators feel that pre-mediation meetings are worthwhile. The benefits which were reported far outweighed any concerns, with the perceived benefits including the following:

- Communication and building rapport with the parties;
- Getting to know the parties;
- Explaining the process again and informing them of what to expect on the day, resulting in minimising formality and fear;
- Identifying any new information or potential issues that may arise;
- Understanding the potential 'emotion in the room' that may come into the mediation, with some mediators

reporting that the opportunity to let off steam, or vent, prior to the mediation could help calm things in advance of the mediation;

- Coaching the parties in matters such as how to effectively put across what they wish to say, recognising when language may be inflammatory and suggesting alternative approaches;
- Actively asking the parties in advance what they wish to achieve at the mediation, and asking them to come to the mediation having thought about this;
- Being able to emphasise that the mediation is an open safe place, and is a benefit which parties may not have in court;
- Providing the opportunity for someone to genuinely express themselves and have someone listen to them, when sometimes in the joint mediation session they may not feel like they have that opportunity;
- Where the mediation is going to be online, checking their online connection and any IT challenges they may have, ahead of the mediation.

...we asked participants to consider the benefits of pre-mediation meetings in the mediation process and to consider any negatives or concerns. The overwhelming feedback was that mediators feel that pre-mediation meetings are worthwhile. The benefits which were reported far outweighed any concerns.

The negatives of holding pre-mediation meetings were described by mediators as:

- The possibility of establishing a better relationship with one party than with the

other, which would have the potential to introduce bias into the process;

- Being careful to ensure confidentiality;
- Time constraints are a perceived issue, with one mediator reporting a pre-mediation meeting which lasted over 2 hours with one of the parties, but much less time was spent with the other;
- Pre-mediation meetings could result in one or more parties becoming more entrenched in their point of view, without considering all the information.

The Mediation Clinic, as part of their intake process, confirmed that the communication with parties is often in-depth, outlining the process and gaining valuable information about the dispute. Reality checking can happen at this stage, with one example being where a party or parties are disputing invoices, and coaching them to make sure they have the necessary documented information to back up their position.

Often cases come to court months or even years after the dispute arose and the parties may not have communicated with each other for a long time. In an online digital age, we do not have the same opportunity to chat before the mediation starts. Having pre-mediation meetings provides the opportunity to 'have a chat' and to get to know each other. One mediator said that they believed that using technology like Zoom was best for one to one connections, second best when you have three or four people on the screen but third best when you have multiple people on the screen, and he described the one-to-one pre-mediation meetings as "steering into strength early" with the one-on-one on Zoom being the least different from actually being in a room with someone.

Mediators reported different approaches to holding pre-mediation meetings, some in advance of the mediation and some on the

day, and by telephone or online. My personal practice is to reach out to all the parties by email a few days before the scheduled mediation. I then normally arrange a telephone call with each party, which usually last for about 15 minutes. If I ever have a situation where I have spoken to only one of the parties, I make sure that I speak to the other at the start of the mediation. If I am co-mediating, I discuss with my co-mediator as to who is going to do the pre-mediation meetings. I always ensure that the same person does the pre-mediation meetings with all the parties, to ensure consistency of approach. The co-mediators can then, prior to the mediation, verbally exchange information relating to the pre-meetings.

At the pre-mediation meetings I outline the process, mention that the case has been referred by the court and request the parties to attempt to find a resolution as an alternative to legal proceedings. I mention that mediation is their opportunity to be more in control of the outcome. Letting them talk a little about their case gives them the opportunity to get things off their chest, and sometimes new information may be introduced which may not have become known without the pre-mediation discussion. I ask the parties to think about what they want to achieve from the mediation, and what a resolution may look like. I talk about dispute resolution at mediation being where the parties have reached a position and are accepting of the outcome, which often involves compromise, with the aim to get them to think in advance about what their own compromise position may be. I remind them of the confidentiality aspect, the fact that there are no notes going back to the court and that they can have an open conversation and be in control of the outcome. The pre-mediation

meeting can also confirm who is going to be in the room. I have had mediations where there have been people present who we were not expecting to be in the mediation.

In summary, the case for pre-mediation meetings is strongly supported and, while it can be time-consuming, the time and effort is worth it. Not least because, where pre-mediation meetings are conducted, the mediation has been described as “hitting the ground running where no one will be a stranger on the day.”

Alison Welsh is an Accredited Mediator who is a lead mediator with Strathclyde Mediation Clinic, and she also mediates privately. Having studied Business and Psychology at Strathclyde University in the 1980s, Alison then went on to have a long career in Human Resource Management and Employment Law. In 2006 she helped establish and manage an HR and Employment Law consultancy firm, Square Circle HR, which supported small to medium sized organisations with outsourced HR and legal support. In 2018, following the acquisition of Square Circle HR by a law firm, Alison joined the University of Strathclyde’s Master’s Course in Mediation and Conflict Resolution. Alison set up Access HR Services in 2023 and continues to work as an independent HR and Employment Law consultant in addition to her mediation work. Her other interests are travel and holistic therapies, being qualified in Reiki and Reflexology.

Research Reflections

Gordon Murray reflects on his LLM dissertation



Gordon Murray

In this series of articles, Adrienne Watson has asked some of our former students to reflect on their Master's dissertations. Our students have shared the lessons they learnt, the impacts of their research and their advice for future students.

In this issue, Gordon Murray reflects on his LLM dissertation, *Do legal professionals in Scotland find it difficult to apologise and are some jurisdictions more successful in facilitating that than others? What actions could be taken in Scotland to help break down that reserve?* which he submitted in 2024.

How would you summarise your dissertation's key aims and outcomes?

My key aims were: (a) to get a better understanding of why legislation has been used to encourage the use of apologies in dispute resolution; (b) to discover whether that legislation has indeed encouraged the use of apologies; and (c) to find if the legislation has had a positive impact on the way that legal professionals in Scotland approach dispute resolution.

My conclusion was that legislation is an imperfect tool and seldom consciously thought about. While it may raise the profile of apologies, its primary value lies within the

confidential setting of mediation. I was also impressed by how seriously legal professionals approach dispute issues in both advising their clients and when the fault lies with the lawyers.

What particularly interested you about the area you were researching?

The use of apologies is seen as a major part of ADR and mediation. I was, however, struck by how much the academic work was targeted at the impact on those who had been hurt or damaged. I found very little had been written about the impact on the person/entity giving the apology. That discrepancy was worth exploring.

Which research methods did you use – why did you choose these methods?

Doctrinal Legal Research was used on selected jurisdictions which have enacted legislation; Socio-Legal Research in reviewing the hinterland of the legislation in those jurisdictions, the perceived success of that legislation, and the pressures for further change; and Empirical Research to interview legal practitioners and law-related NGOs in Scotland.

The methods used were necessary to write an informed and balanced dissertation. It was particularly useful in speaking to lawyers who dealt with disputes on a regular basis – they had first-hand knowledge of the use of an apology in the real world, not in an academic setting.

Did you develop any new skills during the dissertation. If so, what were they?

My IT skills were poor so had to be developed. Learning how to better access and use

research material was essential. Structuring coherent questionnaires for my interviewees was also thought provoking.

What aspects of your dissertation were particularly challenging? How did you overcome the challenges?

Perhaps the biggest challenge was to continually review the width of my proposed research. As I read more, I found there was much more to explore, hence my dissertation title changed significantly from its initial form. In particular, my comparative studies had to be narrowed to ensure I kept within the word count.

What aspects of your dissertation are you most proud of?

I wanted to write a practical and useful dissertation which practitioners and others could reflect on in their day-to-day jobs. While it is still an academic paper, I hope it will encourage the use of apologies in mediation and ADR generally.

If you were to do your dissertation now, with the benefit of hindsight, would you change anything about your dissertation? If so, what?

As I worked on the research steadily, I'm happy I used my time constructively without undue time pressures. It is always possible to improve on writing but ultimately, I am satisfied I put the work in. On balance therefore, short of choosing a completely different topic, I don't have any 'hindsight' concerns.

Was your dissertation helpful in shaping your mediation practice? If so, how?

Yes, in that it ensured I was better equipped to deal with the practical use of an apology in the

right setting and circumstance. It also strengthened my view that mediation is not fully understood and is underused – it needs to be promoted vigorously.

What advice would you give to students who will be working on their dissertations next summer?

As there is so much reading and research to be done, best choose a topic that you personally find interesting. Work at it steadily and ensure you have a lucid thread running through your work. A well drafted Table of Contents breaks down the work into smaller, bite-sized parts. This allowed me to work on a number of sections simultaneously.

Is there anything else you would like to share with our readers?

The dissertation came at the end of an academic year of study. My choice of topic allowed me to consider how I personally would react to either encouraging the giving of an apology, or how I should approach making an apology of my own. Again, making an apology is a very human response well worth building into your mediation practice thinking.

Gordon Murray is an experienced mediator having formerly been a solicitor in Private Practice and has a particular interest in the performing arts. He completed an LLM in Mediation and Conflict Resolution at the University of Strathclyde in 2024. He is a member of Strathclyde Mediation Clinic, accredited with Scottish Mediation, and he also advises on business strategy.

From the Chair.....



Tom Scade



**Sneha Selina
Bonomally**

As autumn settles in and the days grow shorter, it feels like a good moment to take stock of what has been another busy and rewarding period for the Mediation Clinic. Since our last report in July, the Clinic has continued to thrive thanks to the dedication of our mediators, staff, students and supporters.

In September, the Clinic was delighted to be among the finalists in the Community category of the Scottish Legal Awards. Although we did not take home the trophy this year, being shortlisted once again is recognition of the continuing impact of our work. We have been fortunate to have won before, and this year's nomination reminds us how valued the Clinic's contribution remains.

We were delighted to host the International Mediation Clinic Network Conference on 20 October. It was an honour to welcome colleagues from across the globe to Strathclyde and to share experiences and insights from the growing field of mediation education and practice.

We are also pleased to confirm that the Scottish Government has renewed funding for the Clinic for another year. This continued support allows us to build on our success and meet the increasing demand for our services. We are equally delighted to welcome Ryan

Gray, an LLB student in the Law School, who has joined as Assistant to our Clinic Co-ordinator, Pauline McKay. Ryan will be working two days a week until March 2026, providing valuable support as activity continues to expand.

At our Annual General Meeting on 7 October, we marked a number of changes within the Board. Linn Phipps, a long-serving and highly valued Board member, has stepped down after several years of insightful contribution, drawing on her extensive experience across different organisations. Oyinkro Olobio is also stepping down after three years, during which his international perspective enriched our discussions. Abdul Zeeshan has likewise stepped down from the Board, and we thank him sincerely for his thoughtful engagement and the experience he brought to our work. We are deeply grateful to all three for their service and dedication.

After reaching the maximum term of service, Tom Scade will also be stepping down as Co-Chair. Tom expressed his gratitude to current and past Board members for their commitment, and highlighted how fortunate the Clinic has been to benefit from such a diverse and talented team. We also extend our thanks to Daniel Donaldson, who has stepped down as Board Secretary, for his thoughtful and valuable input this past year.

The Clinic's caseload remains strong. In the six months since April 2025, we have received 198 Simple Procedure referrals from the courts. Of these, 105 have progressed to cases and 96 to mediation. So far, 51 cases have settled, 22 did not settle, and 23 are still in progress. Others have concluded in different ways, including cases resolved before mediation or deemed unsuitable. These mediations represent an

estimated saving of around £58,800 for the Scottish Court system, but more importantly, they reflect people finding constructive ways to move forward.

We have also been broadening our collaborative work by arranging mediation observations for trainees from Robert Gordon University and the University of St Andrews, as well as for students on Strathclyde's Master's in Mediation and Conflict Resolution. The positive feedback we have received highlights the value of this practical learning experience.

The new Board will now take forward work on developing the Clinic's Risk Register, while the Document Review Group seeks new members to continue its valuable contributions.

Meanwhile, the Education Group is refining mediation training materials for use across university departments.

It has been a season of change and progress, and we are proud of what the Clinic continues to achieve both within the University and in the wider Scottish mediation community. Thank you to everyone who contributes time, expertise, and care to this work.

Tom Scade and Sneha Selina Bonomally

Co-chairs, Mediation Clinic

Tom Scade completed the LLM in Mediation and Conflict Resolution course at the University of Strathclyde in September 2022 and was awarded an LLM in Mediation and Conflict Resolution with Distinction. He is currently an Accredited Mediator with Scottish Mediation and volunteers as a lead mediator with Strathclyde Mediation Clinic, carrying out mainly Simple Procedure related mediations.

Sneha Selina Bonomally is currently a PhD candidate in Environmental and Planning Law at the University of Strathclyde, focusing specifically on the use of mediation as an alternative dispute resolution mechanism. She is a registered practitioner with Scottish Mediation, actively contributing to Strathclyde Mediation Clinic as a lead mediator, primarily handling Simple Procedure cases. In addition to her mediation work, Sneha is also a qualified architect by profession.

Clinic News



Pauline McKay

Autumn is upon us in Scotland. I noticed it in particular the other day when I was on my way to co-mediate in person. Our default at the Clinic for hosting mediations is online, and we have signed and committed to the [Green Pledge](#) in an effort to lessen our environmental impact. In person mediation is a rarity for the Clinic, although there are opportunities to mediate in person at Falkirk Sheriff Court once per month if there are cases referred to mediation on the day.

What struck me most was not the beautiful autumnal colours, but the joy of collaborating with a colleague in person! Sometimes it is someone you have not seen in person for a while, or perhaps you have only met them online. I enjoy co-lead mediating as both mediators share the responsibility of holding the space for the parties and support each other if conversations become tricky. The conversations between the mediators before and after the session are just as valuable, giving us a chance to reflect, compare styles, strengthen and learn from each other as mediators.

That got me thinking more about mediator-to-mediator connection and what we can do as a Clinic to continue to foster support and networking. Our 79 mediators are mainly based across the UK and although distance can make things fragmented, we are keen to create opportunities to stay connected, ensure

they feel valued and reassure our mediators that they are not on their own.

Alongside our mediations, we have introduced informal short coffee sessions (online and in person), and we try to have a meet up in person at least once per year outwith the University. Peer Support sessions are already in place to support practice, and over the coming months we are introducing one-to-one supervision sessions for lead mediators.

There are other opportunities that we may introduce to help expand their network and we can see how they work, for example, coffee roulette where you pair with a fellow mediator that you have not worked with yet, just for a chat. I notice the Conflict Management Academy are offering an online speed networking event (similar to speed dating!) where you get 5-10 minutes with different people over the period of an hour.

We often need to remind ourselves that we are not solo mediating in the Clinic. We share our space with our co-mediator and have lots to learn from each other in what we hope is a supportive environment.

Pauline McKay

Co-ordinator, Mediation Clinic

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.

Patrick's Ponderings – Motor Car Accident Cases

by Patrick Scott



Patrick Scott

Some mediators believe that any dispute is capable of being resolved through mediation. I suppose technically and hypothetically that could be so. However, some cases are just “not worth the candle”¹. And motor car accident cases, in my view, fall into that category.

During the course of the last few months, a number of such cases were referred to me from the Simple Procedure court. I approached them in much the same way that I approach all other cases. What struck me, though, is that in all the cases both parties enjoyed legal representation. This is something that is not common in the Simple Procedure court. A further notable feature was that the respondent, in each case, was an insurance company. This is not, I suppose, surprising but is something which distinguishes these types of cases from other matters. What is less apparent, although another distinguishing feature, is that most of the claimants are also insurance companies. Not that you would know that from the citation of the parties as the insurers sue in the names of their clients (the insured party)². So, picture the scenario. You have the two drivers who were involved in an accident, both of their insurers and the

insurance companies’ lawyers, all involved in the matter. I think that you may be getting a sense of where this is going

I receive the referral and send out my introductory email to the parties (in this case, their solicitors). Invariably, either one or both of them will not respond to my first email. I send a second email to those who failed to respond. I may be lucky and receive a response. However, I may have to send further emails. When I finally receive a response, this is what I am told (these are actual responses received):

“I would be grateful if you could please confirm if we could receive further time to negotiate matters with the Respondent before making a decision in respect of proceeding with mediation.”

“My understanding is that Respondent is reviewing the matter with a view to making an offer for consideration.”

“From speaking to Respondent representatives, we are fairly confident for now we can narrow any issues for now (sic), so a meeting just now may be premature.”

“I have made an attempt to contact the Respondent’s insured in this matter and am currently awaiting a response. Once I have spoken with him and obtained a statement, I will be in a better position to progress the matter further.” (response after 4 emails and 6 weeks later)

¹ For anyone interested in the origins of expressions, this comes from a 17th-century French saying meaning, where the stakes in a game are too low it is not worth the cost of lighting a candle.

² A practice known as subrogation.

"I am seeking my client's instructions regarding the participation in medication (sic), I will revert shortly." (after 3 emails)

"I am currently awaiting a response from the claimant's solicitors with regards to requested documentation, to determine if this matter can be dealt with without the requirement for mediation." (after a further 3 emails) and

"The claimant's agent has advised that they are still seeking instructions from the client on my most recent offer. I will revert to you with an update as soon as I have one to provide."

I think that you may get the idea. The fact is that almost all of these matters settle without coming to mediation. It is not worth the cost and effort of taking them to a proof. I, as a mediator, am not required. I don't take it personally. The solicitors and their clients (the insurers) are skilled at dealing with these matters. There are requests for documentation between solicitors to support the quantification of claims, requests for statements from drivers and the like. They correspond with each other until they eventually get to a resolution. Or, if they don't, it is normally because they can't agree on which driver caused the accident and, in that

event, probably need a court to determine liability on the evidence.

If these matters are referred to me for mediation, I like to try and progress them as expeditiously as possible, in keeping with the principles of mediation and the Mediation Clinic. In order to do this, I end up sending many emails to the lawyers. In many instances, I don't get an initial response and have to send follow up emails. Of course, all I am really doing is increasing the cost of resolving these matters as a solicitor charges a fee for each and every email that they peruse and respond to.

I then ask the question. "Are these cases suitable for mediation?"

I will leave that for you to ponder ...

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 Scottish Legal Complaints Commission (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.

Scottish Legal Awards 2025

by Robert Campbell



Robert Campbell

It was time, once again, for the Scottish Legal Awards at the DoubleTree by Hilton Hotel in Glasgow. The Mediation Clinic had a table of eight attendees, some of whom had made a considerable effort to be there. Adrienne had travelled by train from London and had to endure an overnight sleeper journey back to London, as she was working the next day. Patrick battled the waves from Arran on what he described as a “choppy crossing”, whilst Tom had to beg his son for overnight accommodation as he would be unable to get back home at the end of the awards. Pauline joined the tail of rush hour traffic from auld Cumbernauld onto the M80 to snake her way into the venue. Rosie battled from Bellshill but arrived unscathed. Charlie and your correspondent had only to make Uber choices of which transport to select.



We were hopeful and had no little expectation that the judges would recognise and allow us to celebrate on your behalf all of the positive things that the Mediation Clinic had achieved in the previous year.



The Mediation Clinic is on an upward trajectory. We have increased the number of cases being mediated. The percentage of cases settling following mediation has increased yet again. Our increased reach in the Scottish Court system year on year is a point to celebrate.



The number of referrals is at a record high. Our work in the mediation field has seen us attract prospective mediators from other Universities and externally from the legal and general commercial world. Supplement the healthy increase in the students at the University of Strathclyde becoming involved in the Clinic,

and you arrive at a situation where the waiting list to work for the clinic as a mediator has had to close.

The moment arrived when the finalists were announced, the compere asked for a drum roll, we held our breath, the announcement was made, and it wasn't us!!

Your humble representatives took a stoic view and reflected as we always do; we advocated for wisdom to be deployed and our knowledge, experience and good judgement pointed us towards demonstrating complete indifference to the pain visited upon us by the judges.



The remainder of the awards came and went with our own little competition regarding the best legal company logo entertaining us for the rest of the evening, only punctuated by the Paralegal of the Year Award raising an eyebrow or two. A field of three finalists was rewarded with a Winner, a highly recommended and then nothing, no mention of the third-placed finalist. Some reflection needed by the judges there one would think.

Then it was over, to the carriages and home. There is always next year.

Robert Campbell was awarded an LLM in Construction Law at the University of Strathclyde. He joined Strathclyde Mediation Clinic in June 2022 and is also an accredited mediator with Scottish Mediation, carrying out mainly Simple Procedure related mediations.

Mediation Mulligans

by Alan Jeffrey



Alan Jeffrey

In this regular column, mediator Alan Jeffrey candidly shares examples of the mistakes, missteps, and gaffes he has encountered on his mediation journey – and, most importantly, the lessons that he has learned from them!

Recently, during a training session for an online conflict management course, I noticed a promise that participants would learn how to confidently manage ‘single-issue conflicts.’ While I’m sure the phrase made sense in the context of the training, I found myself reacting strongly against the idea that any conflict can truly be reduced to a single issue. It made me reflect on mediations that, at first glance, appeared quite simple, and I thought I’d share one of those with you today.¹

This was a simple mediation, according to the paperwork, focusing on damage to the respondent’s home. The respondent had hired a maintenance company to fix the damage. The company finished in good time and the work was done to a satisfactory standard; however, payment did not come. When the owner of the company (the claimant) reached out to his client (the respondent) to encourage payment, he was told that his workers had damaged part of the home and that they were refusing to pay. Embarrassed and upset for his client, the owner sent out workers to fix the issues, though despite this, payment was still not forthcoming and subsequent calls and emails to the respondent were ignored.

When asked, the claimant stated that he only wanted payment for the work done. Nice and simple. When I asked the same question of the respondent, he told me that he was so disgusted with the shoddy work done by the roofing company that he would refuse to pay them as they didn’t deserve a penny for the work. In fact, he said, he was sticking up for the little guy who always gets taken advantage of by businesses like this. Not so nice and simple!

Interestingly, during the mediation itself, this level of hostility wasn’t evident. The respondent, who we will call Gary, was polite, friendly and jovial with the claimant. We will call the claimant Brian, who was also polite, friendly and jovial with Gary. Yet, when it came down to the matter at hand Gary stuck to the script. The work was shoddy, they were disgusted and wouldn’t paying. The use of the word *they*, rather than *he*, will be important later.

Brian however didn’t stick to the script. He told Gary that he didn’t like to see a client of his upset and asked how could they work together to make it right? He offered a massive discount. Gary thanked Brian and told him it wasn’t personal, but he couldn’t move from

¹ Names and key details have been changed to maintain confidentiality.

his position. And then, as he had now done twice before in the mediation, Gary asked for a short break, which was agreed by all.

I asked Brian to join me in a private room. He was ready to give up. I tried to motivate him to keep going, highlighting the good faith nature with which he was approaching the mediation, and went to speak one-to-one with Gary. I was surprised to see that he too was upset, frustrated and desperately hopeless. Gary, in the safety of the private meeting, decided to clue me in on a secret. A secret which explained the apparent obstinacy that seemed so out of character with his otherwise amiable demeanour. There was an invisible person at this mediation!

You see, Brian and I believed that there were three people at the mediation session. Little did we know that there was a fourth, unseen, participant in the form of Rebecca, Gary's wife. Gary told me that in general he's a fairly "live-and-let-live" kind of guy, yet Rebecca, his wife of thirty years, is less "live-and-let-live" and more "seeker-of-justice-at-all-costs" and finds Gary's laissez-faire attitude to be quite frustrating. Rebecca was not able to attend the mediation today, in person, but she was on the phone, through texts and calls, giving strong suggestions to Gary not to back down, which explained the frequent breaks. This left Gary in an awkward position, unable to respond to the subjectively reasonable negotiation tactics of Brian, or the gentle reality checking of me in my position as mediator. Gary lamented that had his wife been able to make it today, and could look Brian in the eye, she would likely be more flexible in her approach. Within the safety of her absence, she didn't have to do that and instead could remain staunch in her position. I asked Gary what he would do if Rebecca was not involved, hypothetically of course. Immediately he replied, "I'd take the

discount and walk round to the guy's office with the cash, and shake his hand". The obvious next question was, "Does Rebecca know that's what you would do?" She didn't. Gary hadn't really communicated this to his wife and, when she had been texting and calling during the mediation, Gary had stuck to the concrete facts, rather than his emotional perception of the situation. One option we discussed could be to give her a quick call and let her know. This made Gary uncomfortable. He confided in me that he didn't want to seem weak in front of his wife. This led to a fascinating conversation that really wasn't about Rebecca at all, but was about Gary's sense of what "being a man" was and how his upbringing, namely his own father's behaviour, taught him never to show weakness in front of your partner.

Gary ultimately decided to call his wife and let her know that he desired to settle and accept the offer on the table. Looking Brian in the eye, he could see that he was genuine and that the narrative he and Rebecca had concocted, of Brian as a swindler and a crook, was not the truth – far from it. He was just a guy, trying to make things right, equally upset by the whole chain of events, and wanted it done with.

When Gary returned, he had told Rebecca what he wanted to do. He had looked Brian in the eye, decided that he could be trusted after all and that he felt the offered discount on the fee was a fair and reasonable offer, which they should accept. Rebecca agreed instantly. Taken aback, surprised in this sudden acquiescence by his previously steadfast wife, he asked "are you sure?". Of course, she was sure, she "trusted him, and you seem convinced. You've always been a better judge of character than me. I've always respected that about you, plus you're nicer than me anyway, and that's why I love you, so better you handle it". A ten-tonne

weight had been lifted from Gary's shoulders, and he seemed ten years younger as he instructed me to return us to joint session so that he could accept Brian's offer. Brian was happy(ish), Gary was happy, I was happy and the settlement agreement was concluded in minutes. And, as can happen in my favourite mediations, they agreed to meet at Brian's office for a coffee immediately after the mediation to shake hands, and to pay the bill of course.

And so, the mediation about damage to a home wasn't really about damage to a home at all, and certainly more complicated than a *single-issue conflict*. Ultimately, and bear in mind I'm not a psychiatrist, it was about a man who loved his wife and wanted to earn her respect by handling the situation right. Though, of course, he already had her respect, because he is nicer than her after all, and that's why she loves him, and he can handle it.

Alan Jeffrey is the senior mediator at Cyrenians Mediation and Whole Family Support service with over a decade of experience in the area of conflict resolution. As a graduate of the MSc in Mediation and Conflict Resolution, Alan maintains a relationship with the University of Strathclyde in his role as one of the lead mediators with Strathclyde Mediation Clinic.



University of Strathclyde
Mediation Clinic

Annual Report 2025

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The full Mediation Clinic Annual Report 2025, including appendices, is available at:

[Mediation Clinic Annual Report October 2025 \(002\).pdf](#)

Introduction from Director

Welcome to our annual report. It's a joy to see the Mediation Clinic continuing to thrive. In my own report I reflect further on what we can learn after ten years of providing mediation in the courts. It's been an interesting journey. At appendix 3 you will find a copy of our strategic plan – I'm struck that, if we had had a plan in 2012, the idea of mediating nearly 200 cases per year in over half of Scotland's courts would have seemed fanciful. Yet here we are.

In the pages that follow you will find a report from our Chairs, Sneha Bonomally and Tom Scade; my report; one from our Coordinator, Pauline McKay; client feedback; and lots of statistics. I'll summarise some headlines:

- | | |
|-----------------------------------|---|
| • Referrals received from courts: | 401 |
| • Cases mediated: | 268 |
| • Cases settled: | 190 (71%) |
| • Estimated saving to courts: | £230,612.40 |
| • Commonest case types | Goods and services, unpaid bills |

Thank you for supporting the Mediation Clinic.



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 Mediation and Conflict Resolution](http://www.strath.ac.uk/whystrathclyde/values/) 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 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/>

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

As Co-Chairs of the Mediation Clinic Board, we are delighted to present this year's report to the AGM. Although both of us are new to the role, it has been a genuine pleasure to work alongside such a committed and talented group of colleagues including our Board members, Clinic Director Charlie Irvine, and Clinic Coordinator Pauline McKay.

We are fortunate to have a Board that is both highly skilled and deeply dedicated. Their willingness to give time, energy and thoughtful insight has been invaluable, and we thank both current and past members for their contribution. Our current Board members are Linn Phipps, Oyinkro Olobio, Bronwyn Sutton, James Claxton, Cordelia Gayfer, Lisl McDonald and Abdul Zeeshan. We also acknowledge with gratitude the contribution of Alison Welsh, who has recently stepped down. A special word of thanks goes to our Secretary, Daniel Donaldson, whose careful preparation of minutes, no small feat given the richness of our discussions, has been greatly appreciated.

Over the past year, the Board has refined its approach, adopting a structure more suited to our advisory role. By reshaping agendas to focus on key strategic matters, and by circulating background papers in advance, we have created space for deeper, more meaningful conversations. This has sometimes added to the workload of the Director and Coordinator in preparing discussion papers, but it has helped us concentrate on issues where Board support can make the greatest difference. An action tracker now helps us monitor progress and follow through, and overall, we have found this way of working to be both efficient and productive.

Through this approach, we have advanced the work of previous Boards by developing a Strategic Annual and Three-Year Plan, now housed on SharePoint and shared with the Head of the Law School. We have placed particular emphasis on supporting mediators, students and parties who are neurodiverse, resulting in a well-received CPD session on neurodiversity in May led by Doug Ross, the University's Staff Disability Adviser. We have carefully considered how best to sustain quality and support mediators as the Clinic expands to cover most of Scotland's Simple Procedure Courts, and we have begun work on a Risk Register designed to align with wider Law School and University processes.

The Clinic itself has continued to grow, and its reach has widened considerably. Referrals are now coming from Sheriff Courts across the whole of Scotland apart from Lothian and Borders (served by Edinburgh Sheriff Court Mediation Service). The detailed figures are set out at Appendix 1 below and discussed in the Director's report, but they clearly illustrate the high level of staff and mediator activity over the past year. Alongside this, the Director and Coordinator have continued to build strong relationships with universities, court staff and members of the judiciary to ensure the expansion is effective and sustainable. We are also grateful for the continued support of the Scottish Government, who have once again provided funding for our expanded activities and offered encouraging feedback on the Clinic's development.

This year has also been rich in opportunities for learning and exchange. On 28th March 2025 the Clinic held its fifth annual conference, on the theme “Growing Mediation, Your Practice and Beyond.” The event, which was stimulating and very well attended, began with a keynote by Michael Jacobs on “The Mediation Dilemma: Resolution or Peace?” and continued with workshops led by Ewan Malcolm, Roy Poyntz and Gordon McKinlay, Patrick Scott, and Ron Inwood and Marie Young of ACAS. In November 2024 we also hosted an International Mediation Clinic Conference, and we are already preparing for the next one in October 2025. Our educational reach has grown too, with new materials developed for university department heads and four short videos on mediation now available to the public on our YouTube channel.

The strength of the Clinic lies not only in its activities but also in its community. The Document Review Group has continued its valuable work. Peer review sessions remain central to the Clinic’s reflective learning culture, and these are led with great dedication by Pauline McKay, Ben Cramer, Gordon McKinlay, Leon Watson, Patrick Scott, Roy Poyntz, Robert Campbell, Frances Sim, Charlie Irvine and Tom Scade. Their commitment helps maintain high standards while also nurturing a supportive and thoughtful environment for our mediators. Plans are also underway to provide voluntary one to one support sessions for Lead Mediators with the Clinic Director. Our quarterly magazine *Mediation Matters!* continues to thrive under the careful editorship of Patrick Scott, supported by Assistant Editor Adrienne Watson, and is now firmly established as one of our success stories.

We are also proud to share that the Clinic has once again been shortlisted for the Community Care and Social Responsibility Award at the Scottish Legal Awards this September. To be recognised among the finalists is a meaningful acknowledgment of the impact of the Clinic and the dedication of all who contribute to it.

All of this points to a Clinic in very good health, building steadily on strong foundations while continuing to grow in scope and confidence. We are proud of what has been achieved, grateful to all who have given their time and energy, and excited for what lies ahead.

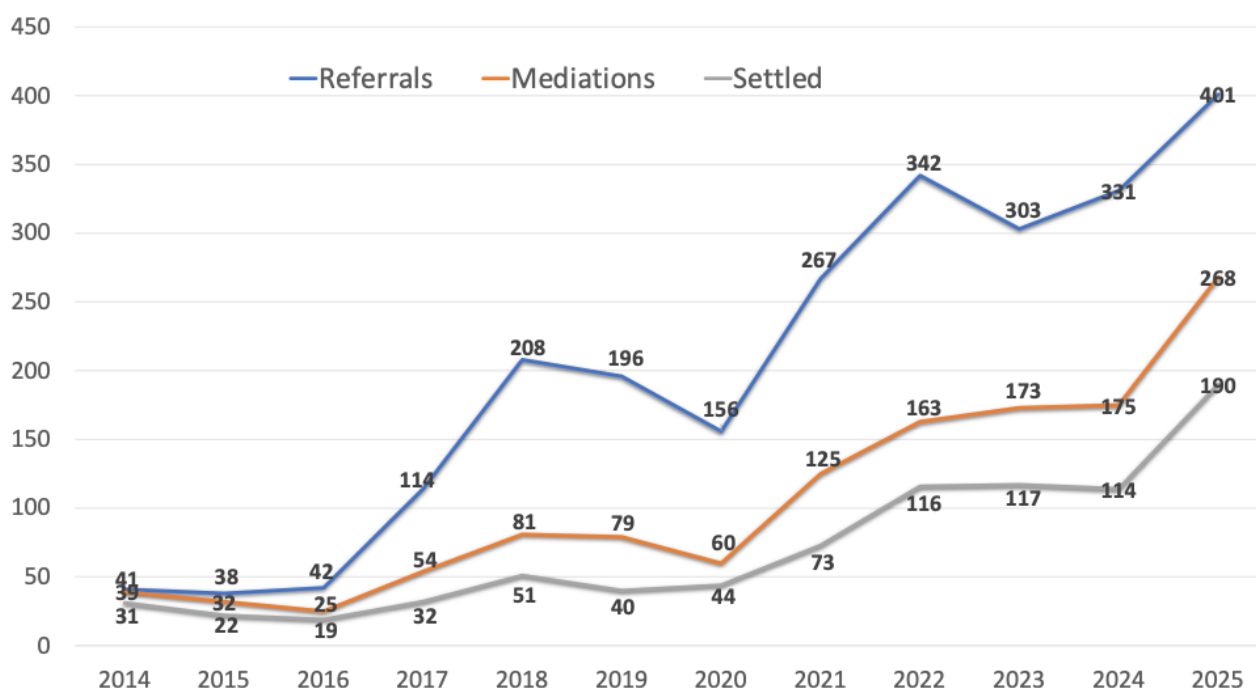
With our warmest thanks and best wishes.

Tom Scade and Sneha Selina Bonomally
Co-Chairs

Director's Report

This is the Mediation Clinic's fourteenth year, and February saw the 11th anniversary of our first small claims mediation in Glasgow Sheriff Court. The figures below illustrate the journey we've been on.

Mediation Clinic referrals and mediations since 2014



The Mediation Clinic has become a fixture of the Scottish justice system; already it seems hard to imagine how Simple Procedure could be delivered without our contribution. In 2024-25 we fully integrated the sheriffdom of Grampian, Highland and Islands, receiving referrals from any of its courts and working with local mediators wherever possible. This means the Clinic is now receiving cases from 35 courts across the country. That may explain the significant increase in referrals from last year, though the figures at Appendix 1 show the largest proportion coming from the sheriffdoms of North Strathclyde and of South Strathclyde, Dumfries and Galloway.

Mediators

I would like to pay tribute to our mediators. It's quite extraordinary to see the settlement rate return to a rate (71%) we haven't seen since 2015, when we attended Glasgow Sheriff Court in person and mediated on the spot (it was then 69%). Although all data should be interpreted cautiously, and other variables will play a part, I'm sure these figures reflect growing expertise. More mediators are working on more cases and building their skills and range with each one. These are not easy cases; it says a great deal for the mediators' humanity and expertise that so many reach a resolution.

Why the challenges between 2015 and now? The chart above shows three major jumps in referrals: first, the introduction of Simple Procedure in 2017; second, post-pandemic as we began working remotely and expanded to 18 courts; and third, since Scottish Government asked the Mediation Clinic to cover two

additional sheriffdoms. It seems clear that each upswing in referrals, from new rules or new sheriffdoms, leads to lower rates of both mediation uptake and settlement. The good news is that, as courts, parties and lawyers become familiar with the process, both these rates gradually increase.

Coordinator

I would also like to pay tribute to Pauline, our Coordinator, and others who conduct intake calls. The rate of engagement (from referral to mediation) has also increased (to 67%). Pauline has worked hard to lay the foundations here, visiting sheriff clerks around the country and creating a user-friendly system for parties once referred by the courts. It may well be that a good initial experience with the Clinic contributes to more cases settling.

It's instructive to look at figures just released by the Ministry of Justice in England & Wales, showing the equivalent rates since it introduced mandatory telephone mediation for small claims last year.¹ Some 1,900 claims were mediated in July 2024, with a settlement rate of 49%; by July 2025, 5,290 claims were mediated, but only 30% reached a settlement. My guess is that this will recover – our lowest settlement rate, of 39%, occurred following significant expansion in 2018. Having said that, and at the risk of blowing our own trumpet, I remain convinced that the Clinic's model is the best way forward: an intake call with a real person, followed by remote mediation using a blend of joint and private sessions over 2-3 hours.²

Service users

Mediations are about more than numbers, however. Each one draws mediators and parties into an intense drama. These real-life morality plays feature accusations and rebuttals, justice and injustice, anguish and relief, reason and emotion and, often, resolution and closure. We mustn't lose sight of the individuality animating mediation practice. Mediators are asked to ride these waves of emotion alongside the parties, calling for constant adaptation as we attempt to tailor our 'moves' to best suit the moment.

Success can't be measured simply by settlement rates. It's instructive to read further down this report to Appendix 5, where you'll find the responses to our feedback survey. Last year over 100 people completed the form, and their detailed responses offer a more nuanced picture of what mediation is like for its consumers.

When asked for comments or suggestions, responses ranged from highly positive to the opposite:

+ve

- *Was guided well from start to finish, well worth doing and saved a lot more stress.*
- *Service was excellent and couldn't have asked for more from the mediator.*
- *[Mediator] did a fabulous job. His technique worked in cutting out the nonsense.*
- *I'm a very nervous person and I cannot praise the mediators enough for how they came across and keeping my nerves calmed.*

¹ With a value of up to £10,000. See <https://www.gov.uk/government/statistical-data-sets/hmcts-management-information-july-2025>

² See my comment on this in 2023: <https://legalblogs.wolterskluwer.com/mediation-blog/a-nudge-to-mediate-new-report-from-england-wales/>

- *From the bottom of my heart I want to thank the mediators who took the time and listened to my situation. I had never had to meditate before and although I was hopeful I was realistic that this may end up in court. However, thankfully this nightmare I have been living has now been resolved.*
- *Partial settlement of the costs, but equally important to us was the acknowledgement/apology.*
- *The mediator created a calm non-confrontational space which facilitated settlement. He also helped the other party understand the issue. It seems to me that it took legal action to get the other party to become fully aware of the details. And the mediator helped in that.*

-ve

- *Waste of time due to the other party's aggression and bad attitude.*
- *The mediation did not consider the background to the dispute and the respondent came out with a far better solution for them. This is the first time I have used this service and would not use it again. It was far weighted in the respondents favour.*
- *[Mediator] was really good but it felt we were pushed in to accepting a settlement even though the respondent's statement to court was full of holes. It leaves a bad feeling having to accept we were not paid in full for the work we carried out in good faith.*
- *More impartial. Even judge was on claimants' side.*
- *The mediation clinic should be willing to accept the need for more robust settlement agreements, the current style does not offer full legal protection to parties and when this was suggested by me, both the claimant and the mediators were angered but I am afraid it is true.*

To be fair, there are many more positive than negative comments. These are laced through with a sense of gratitude that this unfamiliar process was done well, and gratitude (perhaps relief too) that mediators were not only humane but competent. Some seem to have experienced surprise that it led to a "good enough" result. This latter sentiment was echoed in my own research,³ with most participants unable to say they got "absolute" or "100% justice," yet pleased to have got a result that they could live with. As one put it: *"I think that it is as good a justice as I could have got. I think, yes. Yes, I think it's reasonable justice. There's always a risk going into court. You can never tell and certainly my wife thinks it's a superb solution."*⁴

At the same time, we need to take critical feedback seriously. It's clear that parties are highly sensitive to mediators' impartiality; any hint of sympathising with the other party's point of view risks undermining the trust we work so hard to build. Some were critical of the other party, but disappointed that the mediators weren't more authoritative, revealing another delicate balance, between respecting people's autonomy and remaining sufficiently in control to allow safe and constructive dialogue.

To conclude, the Mediation Clinic is a complex endeavour to which dozens of people contribute and from which hundreds benefit. This annual report sets out some of the past year's achievements; I hope it also encourages us to continue to improve, knowing we're doing something important and worthwhile. And I look forward to working with everyone who supports and works with the Clinic in the year to come.

Charlie Irvine, Director

³ C Irvine (2024) [Does mediation deliver justice? The perspective of unrepresented parties](#). Queen Margaret University, PhD Thesis, p. 188 & p. 195.

⁴ *Ibid*, p. 199.

Co-ordinator's Report

The figures from this last year show the busiest to date for referrals from the [Scottish Courts](#). Thanks to the [Scottish Government](#) continued funding we now offer our service to 35 of the 39 Sheriff courts throughout Scotland. Increase in referrals is in part due to undertaking cases from Grampian, Highlands and Islands for the first time.

Our Strategic Plan for 2025-28 is underway and objectives on track, a small selection is detailed in this report.

Continuing to engage with our stakeholders has been a priority. Offering CPD to Sheriff's and mediators; hosting and presenting at conferences; and liaising with parties, all increase the awareness of our service.

Promoting our service to the courts has opened opportunities for us to connect and strengthen our partnership with staff. Our online events for court staff have created a space for the Clinic and court colleagues in remote areas to meet, explore the mediation process, ask questions and share feedback. In-person visits to various sheriff courts continues to strengthen these partnerships, demonstrating our commitment to supporting court staff in their day-to-day work.

Our once per month in person mediation service at Falkirk Sheriff Court continues to be of benefit to both the parties, court and our mediators. In person mediation adds a different dimension to our mediator learning as well as offering parties the opportunity to resolve their conflict on the same day at court.

Our additional offering this year of delivery of Mediation Skills workshops to Humanities and Social Science School Managers was warmly received. These two-hour sessions have sparked interest from other faculties within the University and there appears to be a clear appetite for mediation skills beyond the Clinic.

March 2025 marked our [5th Annual Mediation Clinic conference](#), held online and drew lively discussion and feedback. Our International Mediation Clinic Network (IMCN), which includes colleagues from India, Canada, Germany, Czech Republic, Lithuania, Ireland, England, and Scotland, hosted its first conference on [Clinical Mediator Education](#) November 2024 and we look forward to the next conference on [Global Mediation Clinics](#) on 20 October 2025 online. Please do join us if you can.

Our partnership with [University of St Andrews Mediation Service](#) is flourishing. Each year four students join us to gain hands-on experience by mediating alongside experienced practitioners within the Clinic. With Clinic guidance, they can progress to Lead Mediator building confidence and skill in mediation. We welcome this partnership and look forward to additional collaboration with [Robert Gordon University](#) next year.

Currently, the Clinic has a membership of 79 mediators primarily based in the UK and we currently operate a waiting list. We are proud to offer practical experience to newly qualified mediators and continue to support all mediators on their mediation journey. Our collaborative Peer Support and CPD training continues.

The Clinic continues to offer a placement for Year 3 LLB students as part of their Work Placement Module. Last year saw Charlotte McMunigle working with us one day a week, and this year we welcome Mariam Naeem. We hope this invaluable experience will inspire her to volunteer with the Clinic and pursue mediation in her legal career.

Thanks should go to Rosie McBrine, Service Delivery Administrator who has now moved to a different role within the Law School. Ryan Gray now takes over as Student Assistant and is a welcome addition to the team.

A heartfelt thanks also to our wonderful Mediators for their time and commitment. The Clinic would not be able to operate without you.

Pauline McKay
Mediation Clinic Co-ordinator



Mediation Clinic at University of Strathclyde

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and the University of Strathclyde**

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