Compulsory Family Mediation Assessment in England and Wales: A Success?

Sally Tuddenham

One year on from the introduction of MIAMS... should there be an element of compulsion to mediate family disputes?

The family lawyers group Resolution has carried out a survey of its members, marking the first anniversary of compulsory “Mediation Information and Assessment Meetings” (MIAMS) in England and Wales.1

Driven by increasing pressure on courtrooms and cuts in legal aid, from April 2011 all divorcing couples are required to attend Mediation Information Assessment Meetings before they can issue an application to the courts. In response to legal aid cuts there is an increase in litigants fighting cases themselves. Such cases are reported to take twice as long and family courts are becoming increasingly overrun.2

A year on, the question is – have these rules had the desired effect of diverting more cases from the family courts?

The survey conducted by Resolution measures the effectiveness of the new rules, having generated responses from users of over 100 courts across England and Wales, including over 6,500 divorce lawyers.

Results suggest that perhaps the rules are not working as planned, with respondents reporting that the rules are being largely ignored. The survey found that only one third of members were referring the majority of their clients to MIAMS and 78% of respondents reported that courts were not checking whether couples had considered mediation before making their application to the court. The survey also highlighted a lack of consistency between courts.

It is interesting to hear why solicitors and judges have not fully embraced MIAMS. One judge stated that “The Government wants people to stay out of court, but it is very difficult to get people to mediate when they are still very angry and haven’t had the benefit of legal advice”.3 Another concern expressed was the cost of MIAMS to clients. One solicitor stated:

“I have certainly found them difficult to sell to privately paying clients who have exhausted all lines of communication with a spouse before coming to me in the hope of obtaining court intervention.”4

It is thought that those Resolution lawyers who are trained mediators or collaborative lawyers might see MIAMS as a waste of time, owing to the fact that they are able to easily recognise cases which will need the court to become involved. Approximately one third of Resolution lawyers are mediators or collaborative lawyers.

It could be that a lack of preparation prior to implementing the rules has had a
detrimental impact on efficacy. The rules were introduced after a very brief consultation period and concern has been expressed that there had been insufficient education of solicitors, judges and the public before the scheme came into force. Many disputing parties are not aware of the options, or the full benefits, to be gained from mediation and may therefore dismiss this option too readily. Studies have shown that proper publicity can be a powerful determinant of success and should include a clear explanation of mediation. Social research on mediation concluded that, “relevant, reliable and widely available advice could contribute to encouraging early participation in mediation and support efforts to widen access to justice”. Client awareness of the scheme may be low, but many clients will rely solely on the advice of their solicitor and so it could be argued that the responsibility falls on solicitors and judges to make the scheme a success. As highlighted in the Paths to Justice Scotland survey, half of those who obtained advice went to a single source. Lawyers are perceived as important gatekeepers and it could even be the case that until the minds of lawyers are concentrated on mediation, it is largely ignored. Evidence from evaluation of mediation referral schemes shows the judicial role is important in driving the change process and encouraging parties to mediate.

Robin ap Cynan, Law Society family law committee member and representative on the Family Justice Council, said the MIAM process is worthwhile and liked by clients who have attended it. But ‘for it to be effective, you need a fierce judiciary.’

In a recent speech to Resolution members, Sir Nicholas Wall, the President of the Family Division addressed the survey results:

“May I... apologise for the fact that MIAMs are not working as they should in certain parts of the country. The position is that the government insisted on the “pre-action protocol” with every would-be litigant going to a MIAM as a pre-condition of instituting proceedings. At the same time the government refused to make attendance at a MIAM compulsory, on the ground that compulsory mediation was a contradiction in terms. The result, in some places, has been that the pre-action protocol is not being followed.”

This raises the issue of compulsion to mediate being contrary to the principles of mediation, and to the constitutional right of a citizen to take a dispute to the courts of law. However, it can be argued that a form of compulsion to merely consider alternatives does not violate such rights. Parties are free to decline mediation and subsequently bring their case to court if they wish. It may even be seen as increasing access to justice, by ensuring that parties have equal access to information about all available options to resolving their dispute.

The President of Resolution urged practitioners to encourage the court to make proper use of its powers to persuade parties to use alternatives to court at every stage of
a court process. In the current climate, where the courts have become overrun with those who cannot afford legal representation, it is imperative that practitioners and judges recommend suitable cases for referral to alternative routes to resolution. What is less certain however is how this might be enforced. The idea of penalising in costs has been raised, however this is controversial and might be difficult to implement in practice.

Survey outcomes were not negative across the board, many respondents reported positively the higher level of mediations as a result of increased awareness. This is supported by Resolution’s own figures that show that mediations increased by 51% between 2010 and 2011. Judicial statistics have shown that there has been a 6% drop in private law cases coming before the court since last April.

So should Scotland introduce similar rules? There are already several rules on family mediation, which allow for the court to direct a referral to mediation in family cases in an action in which an order in relation to parental responsibilities or parental rights is an issue, at any stage of the action. There are currently no such rules in place for orders relating to divorce.

Stuart Valentine, Chief Executive of Relationships Scotland said on the matter:

“Our network of local services offers family mediation across all of Scotland and we have been watching developments in England very closely. The suggestion of any compulsory element to mediation does initially sound contradictory, however it is clear that the compulsory element only refers to attending information sessions about mediation and there is no compulsion to participate in mediation itself.

Whilst the new system in England might not be working perfectly so, it does appear to have significantly increased the number of people going through mediation, which is to be welcomed. It is clear that family mediation helps separating couples to quickly and effectively work out the future care of their children, often removing the need to go to court.

Relationships Scotland believes that there is significant merit in considering some form of compulsion for couples to explore the potential of mediation before going to court. We have the opportunity to learn from some of the short comings of the new system in England and we could potentially introduce a better system in Scotland.

Relationships Scotland is currently holding exploratory discussions with the Scottish Government on this issue alongside representatives from collaborative law and we hope that these will be fruitful in due course.”

Sally Tuddenham
Scottish Mediation Network

1. Resolution, Press Release, 04/04/12
2. Law Society Gazette
3. DIY Divorce Puts Huge Pressure on Legal System, Emma Pearmaine, Simpson Millar
4. Nelsons Solicitors Limited
5. The Housing Corporation 2001, The Big Picture Mediation to Resolve Disputes in Social Housing
9. Law Society Gazette
10. Resolution, Press Release, 04/04/12
Celebrating Carol Paton

Carol was a sparkling woman whose fizz infused every part she played in life. In her early housing career she was a leader in showing practical ways for all home environments to be designed better for people with disabilities by paying attention to them. She became a housing regulator who was so welcomed for her supportive critiques that when she moved on as Paton Independent, hers was the advice housing associations sought on getting governance onto the right track. As an interim manager she pulled many organisations, including SMN, through a sticky patch between directors and Robin admired from close at hand the last time she played this role as the supremely steadying hand that was then needed by the Edinburgh and Lothian Health Foundation in a time of change, only a few months before she heard she had cancer.

Carol was a part of the lives of both of us in our work and in our play over almost thirty years and whatever role she played she gave it added sparkle. None less than when we found we had joined up to the same Core training course in mediation. Carol was the role player extraordinaire showing that mediation's gain was acting's loss. Typically Carol, she was the inspiration behind the 1620 Group - the mediator novices of the Core class of 2004 - who have since that year met for an annual dinner and catch up. We will miss Carol at the next one and much more besides. But her fizz – a legacy of fun, practicality, common sense, wisdom, passion and inspiration - will continue to sparkle in so many areas of Scottish life which her life touched that we are much richer for having known her.

Robin and Lindsay Burley

Carol Paton was a valued friend and colleague. She was bold and beautiful and colourful. Bright, vibrant colours. I will remember her with joy, not sadness, as she lived her life to the full and held true to her values. Carol was congruent. A wysiwyg person - what you saw is what you got. And from living and being who she truly was, this made her an outstanding mediator. Someone you could trust, who radiated integrity, who listened with full attention and who was never judgemental. I will miss her, but I will not mourn her. For she will always be in my memory like a wonderful summer or a stunning sunset.

Carolyn Hirst
Celebrating Carol Paton

I met Carol Paton for the first time on a Core Mediation training course where we were both trainees. It was obvious from the start that she was a great communicator. Her warmth, bubbly personality, and depth of professional experience shone out. In that course she and I were paired up to talk (and more importantly listen) for 2 minutes each on a subject important to us. This involved 2 minutes of intense listening and I can recall vividly looking into Carol’s open and expressionful face as she spoke so passionately and clearly. I can remember exactly what she talked about – providing the right kind of space and facilities for housing association clients by listening to the clients themselves. I treasure that picture of her in my mind’s eye.

In later years we met in various professional capacities involving management or mediation and in each one Carol was equally passionate, committed and caring. The group taking that particular mediation training course has met annually, often without certain members but never without Carol. Her hugs were legendary and set the tone for the gatherings.

Carol was a one off, and her warmth and wisdom was carried lightly and with infectious enthusiasm. She made us all much wiser, stronger and energetic in our endeavours to make the most out of business or service, through that most fundamental quality of valuing human relationships. That is a legacy that we must carry forward in her honour.

Margaret Ross, University of Aberdeen

I first met Carol when she volunteered to be a Board member of Family Mediation Lothian many years ago when I was the Director. Her support and wise words were most welcome at a time of major funding cuts and threats of redundancies. She understood the challenges; she appreciated the feelings of staff and was always available to share her thoughts and expertise. I was delighted some years later when Carol was appointed Interim Manager of the Scottish Mediation Network. Again her support was amazing at a difficult time, she was just an adorable person who will be sadly missed by all who had the privilege to know her and the double joy of working with her. I will not forget the many laughs we shared.

Carol Hope

I didn't get to know Carol well until about 2 years ago when I commissioned her to do some mediation work for a small charity that I'm involved with, that was going through a difficult time. I was impressed by Carol's thoughtfulness, sincerity and attention to detail as she prepared for the mediation meeting. Then suddenly fate decreed that Carol had some personal difficulties of her own to contend with, and she called me to explain regretfully that she was unable to mediate. What I remember most vividly from that conversation was Carol's concern for the charity and the dispute that needed to be resolved. I was blown away by her selflessness and genuine concern for others, even in the face of personal adversity.

Carol was a very special lady and I feel privileged to have known her and worked with her.

Morag Steven
We at Core were very sorry indeed to learn of Carol Paton’s death very recently. Carol was a dedicated and thoughtful mediator, much respected by all who knew her. She was a distinguished graduate of our mediation course (2004) and, for a time, she was a member of Core’s group of mediators. All who worked with her will remember with fondness her sparkling smile and engaging manner. She was a true friend and will be greatly missed.

John Sturrock QC

I first met Carol in 2003 on the Core Mediation Skills course. What immediately struck me was her cheerfulness and ability to get along with everyone in the room, a quality that never deserted her. This was her first taste of mediation and she was clearly a natural.

I had the privilege of working much more closely with Carol when, in 2009, she stepped into the role of Acting Director for the Scottish Mediation Network. As Chairman I was able to see at first-hand how Carol steered the organisation through choppy waters. Again her enduring good-nature shone through, combined with a great deal of hard work and clear thinking. Carol’s wise counsel helped to steer us through a lengthy recruitment process, and I retain a vivid impression of her reassuring effect on members and staff during that period.

Later, when she was telling me about her own illness, the same qualities shone through. Carol approached life with vigour and generosity, and seemed to see no reason why that should change when it was getting shorter. She has been a fantastic example to me and to the mediation community of how to deal with life and death.

Charlie Irvine, Chair of SMN

I met Carol at first when I took up post as Director at SMN. Carol had been holding the fort as Interim Director and the first thing that struck me was how fond the staff, Board members and others in the mediation community were of Carol. Carol radiated warmth and very quickly we got to know each other, share confidences and I was able to go to Carol for advice. She had a very light touch – great at giving advice but never bossy or overconfident. We would slip out for the occasional coffee and buns in Broughton Street. She was hilarious, irreverent, had a very lively intelligence and was decent and down to earth. You knew when you met Carol that you would come away feeling happier and uplifted, more confident and clearer about what you had to do.

She was, in the mediation community, a bella figura. She was always bandbox smart – and had the “colour me beautiful” approach to clothes perfected. The main reason she was so highly regarded in the mediation community was not because of her sense of style, or her warmth, or her approachability, or the fact that she was great at problem solving – and all of those talents were hers in large measure. It was because she was so good at what she did, a consummate professional, someone who was utterly reliable and always left an organisation in a much better state of health than when she first encountered it.

I saw her earlier in the year and she was in good heart and was taking the “every cloud has a silver lining” approach to cancer declaring that she was finally able to get into a size 12 dress!

Like countless others, I will miss Carol, I still find it hard to believe she is not here. I don’t know whether she was a woman of faith or not – but either way I feel confident that she is up in the place where the good people go.

Margaret Lynch, SMN Director
“I wouldn’t trust him as far as I could throw him. But I do respect what he does.” Trust and Respect – could they provide a useful way of starting to rebuild a ruptured relationship?

I am often surprised in mediations when the two people who say they have no trust in each other each respect the others competence! So how do the parties rebuild trust? What can we do to help that process? And what about respect? Is it easier to work with in a mediation than trust?

Respect
Respect can be created when people treat each other as they want to be treated - "Do unto others as you would others do unto you". Which suggests our expectations of how the other persons behaviours / attitudes will reflect our own. Research suggests respect fosters improved decision making, as teammates consider new ideas and viewpoints that arise through conflictual debate, rather than interpret conflict as a personal attack.

Respect can also come from perceptions of the “excellence” of the other’s skills. It is a deliberate, reflective consideration and judgment. So we may not have to like it to respect it (or them). So a mediator, looking for anything to work with in this desert of a relationship may find there is some respect for the other’s skills / knowledge. (Note these are usually unemotional elements. They don’t suggest “nice” as “competent”.) But that could be a starting point for a new relationship.

Trust
Humans have a natural disposition to trust that can be traced to the neurobiological structure of the brain. In sociology the degree to which one party trusts another is often seen as a measure of belief in the honesty, fairness, or benevolence of the other party.

A metaphor - Trust is like a stalagmite – it takes years of tiny, positive interactions to grow, drip by drip and yet can be snapped off in an instant. Every time we interact with someone, we have expectations of how they will respond, based on our experience of them. If they respond as expected, we “trust or rely on” them to behave in a certain manner. If they respond in a negative way trust is diluted if not destroyed. Some recent research suggests a failure in trust may be forgiven more easily if it is interpreted as a failure of competence (or respect?) rather than a lack of benevolence or honesty. In the stalagmite analogy, rebuilding trust will take multiple, positive interactions between the parties, where the outcomes are mutually positive and create expectations which are consistently met, which creates great opportunities for a mediator.

Using the Respect / Trust Dynamic
First by explaining how trust develops and how it can be destroyed. Then by using the stalagmite analogy (or your own equivalent) which acknowledges that it will take time to rebuild over countless interactions that create positive expectations.

So let’s base our discussions about the future on two positives. First the respect they have for each other – however small. Get them to express it, spend time talking about it. The “junior” thinks the “senior” does a really difficult job better than they could. The “senior” thinks the “junior” is bright, and could go far (possibly the further the better). Second by defining those future interactions – how they greet each other, email each other, speak in meetings etc etc. This approach brings three other advantages – clarity, certainty and impersonality. This is a discussion about communication skills (not whether I trust you or not), future behaviours which they can define and give some clarity about what the future will be like and – if defined in enough detail – will give some certainty about what the future will feel like. And the more they stick to their self-defined behaviours, the more the interactions will be positive, the more their expectations will be reinforced and the more trust will follow. They can get support to help when the interaction goes wrong – and it will - until through practice, they know how to do it themselves. Because by then they will trust each other to want a better relationship and should respect their skills in helping to make it happen.

Jeremy Scuse
Catalyst Mediation
Dispute Resolution App becomes available on Smartphones...

‘Picture it Settled ™’ helps litigants analyse their positions and design successful negotiation strategies. Don Philbin, an attorney and mediator in San Antonio, Texas, created a smart phone app to help with back-and-forth settlement negotiations, such as during mediation. The app is called Picture, and it allows you to track every offer made by each side in a negotiation along with the date and time of the offer. The release of another app ‘Mediation Master’ was seen this month, described as a ‘convenient, effective option for mediators.’

We have seen success in telephone mediation, but has this gone too far...

Read more: Picture it Settled Mediation Master

Court of Appeal pilots mediation scheme in bid to cut litigation costs

The Court of Appeal (CoA) is to pilot a mediation scheme for all personal injury and contract claims up to the value of £100,000 for which permission to appeal is given.

The Court of Appeal Mediation Scheme (CAMS) will be managed by the Centre for Effective Dispute Resolution (CEDR).

Under the plans parties will be expected to mediate disputes unless the presiding judge says otherwise. If both parties agree to mediate, a panel of accredited CAMS mediators will be nominated by CEDR. The selected mediator will bring the parties together to try to reach a settlement. If there is a settlement, the case will not go back to the CoA.

Read more here.

Turkey: Mediation Bill Gets Approval

Parliament’s Justice Commission has approved a controversial draft law paving the way for jurists with professional experience of at least five years to mediate in private law disputes for out-of-court solutions.

The arrangement, aimed at relieving Turkey’s congested judicial system, has come under fire on the grounds that it could endanger the rights of women and open the door for religious communities and the mafia to interfere in legal matters. Once mediators are called in, any related lawsuit would be put on hold for three months, pending whether or not the parties can reach a mutual agreement outside of the courtroom.

Read more here and also here.

The Children’s and Family Bill

The Children and Families Bill could make mediation a statutory prerequisite. Under reforms set out in the Queen’s Speech, fathers look set to be given additional rights to see their children after family break-up or divorce, so long as it is in the child's best interests. The Queen’s speech announced a consultation on legal options to strengthen the law in England and Wales to ensure both parents are able to have a relationship with their children after they split up. Justice minister Jonathan Djanogly said of the reform: "there is a much clearer focus on the child and their needs," "It will also mean that we make it a statutory prerequisite for separating couples to consider family mediation before starting court proceedings over child arrangement disputes. Family mediation can be quicker, cheaper and provide better outcomes for all concerned."

Read more here.
Mediation in the news

Ireland: Further report on Draft Mediation Bill called for by 1 June 2012

The Draft General Scheme of the Mediation Bill was published 1 March 2012. It builds on recommendations of the Irish Law Reform Commission Report “Alternative Dispute Resolution – Mediation and Conciliation”.

The Bill contains a number of provisions including: imposing a duty on Irish solicitors and barristers to provide information on mediation; that the mediator should report back to the court where the mediation is a result of court intervention and, controversially, it provides that the mediator may make proposals to settle the dispute, with the agreement of the parties. The bill highlights the significance of mediation in Ireland and suggests that Ireland might be ahead of the UK in incorporating ADR into the justice system. There has however been some debate in relation to the definitions in the Bill.

Read the debate [here](#).

Court of Appeal defends successful party’s refusal to mediate

In a rare move, the Court of Appeal has exercised discretion on costs, holding that a successful party was not unreasonable to refuse mediation and should not be penalised in costs on that basis: Swain Mason v Mills & Reeve (a firm) [2012] EWCA Civ 498. The defendant solicitors successfully defended a professional negligence claim against them. However, the trial judge (Arnold J) awarded the defendant only 50% of their costs. The judge found that “the defendant’s attitude in simply refusing even to contemplate the possibility of mediation on the grounds that the claim was utterly hopeless was an unreasonable position to take”. The decision illustrates that a refusal to mediate, may, in some circumstances, be justified. It is however a high-risk strategy, as an unreasonable refusal to mediate can carry significant costs penalties. The judge referred to the relevant factors set out in the renowned Court of Appeal decision in Halsey v Milton Keynes General NHS Trust [2004] EWCA Civ 576.

Doctors Need Mediators

According to a study in The American Journal of Bioethics, physicians and patients need assistance in order to deal with complex moral issues. Clinicians deem a high percentage of their patients to be ‘difficult’, however according to the report it is the system that is at fault. Where complex moral or ethical problems are too entrenched it is thought that the answer is to make mediation resources available to clinicians. Should issues be strictly between patient and clinician or would third party assistance be welcomed...

Read more [here](#).

Be the first to know the latest mediation news by following @ScotMediation on Twitter, or join our group on LinkedIn or Facebook.
Peer Mediators describe the perfect mediator...

Young people from the "Having your say Group" in West Lothian (young people in foster care) have been working with Carol Hope over the last 3 months to train in peer mediation and negotiation skills. We worked on some art work around what makes the perfect mediator, using the young people themselves as templates.

The peer mediators described the perfect mediator as smart, clean, smelt nice, on time listened, gave good eye contact, was fair and kind...is this you?

Peer Mediators from Whitecraig Primary School received their certificates for completing their training from SMN and Common Ground Mediation at an awards ceremony in front of pupils, parents and invited guests. The YouTube video of the training was shown and another film produced and filmed by the Peer Mediators themselves, which we hope to have on our website soon.

DO YOU HAVE PEER MEDIATION IN YOUR SCHOOL?

If you are a primary school in the Glasgow area with a peer mediation service and you would like to link up to another Glasgow school to share practice and network, please contact Carol Hope using the details below for further information.

Email: carol@scottishmediation.org.uk
Call: 0131 556 1221
Post: 18 York Place, Edinburgh, EH1 3EP
Missed out on attending the ADR Conference? Second chance to hear from John Lande...

John Lande Masterclass
Integrating Mediation in the Legal Dispute System
Thursday 17th May 2012, 9.30am–12pm

Professor John Lande, Isidor Loeb Professor and Director of the LLM Programme in Dispute Resolution at the University of Missouri School of Law, returns to give a morning workshop for the Scottish Mediation Network. He will talk about his Dispute System Design programme and expand on his keynote address at the fully booked Law Society of Scotland/Scottish Mediation Network conference on embedding ADR in the justice system.

We look forward to seeing you at this event. Professor Lande’s workshops with the Network have proved extremely popular in the past. Numbers are restricted, and this workshop is significantly subsidised, so please book early to avoid disappointment.

**CPD:** 2 hours

**Venue:** 18 York Place, Edinburgh, EH1 3EP

**Costs:** £25 for SMN Members, £50 for Non-Members
*Organisational members are entitled to two places at membership rates.*

**Email to book your place:**
To book your place please email admin@scottishmediation.org.uk with the subject line ‘John Lande Masterclass’

---

John Lande is the Isidor Loeb Professor and former director of the LLM Program in Dispute Resolution. He received his J.D. from Hastings College of Law and Ph.D in sociology from the University of Wisconsin-Madison. Before coming to MU, he was director of the Mediation Program and assistant professor at the University of Arkansas at Little Rock School of Law, where he supervised a child protection mediation clinic. Before that, he was on the faculty at Nova Southeastern University and was a fellow in residence at the Program on Negotiation at Harvard Law School. He began mediating professionally in 1982 in California.

His scholarship focuses on various aspects of dispute systems design, including publications analyzing how lawyering and mediation practices transform each other, business lawyers’ and executives’ opinions about litigation and ADR, designing court-connected mediation programs, improving the quality of mediation practice, the “vanishing trial,” and planned early negotiation.
Mediation in the Complaints Handling Process

Tuesday 12th June 2012, 2pm—5pm
Scottish Mediation Network, 18 York Place, Edinburgh, EH1 3EP

This event will be led by Carolyn Hirst and Richard Walter, looking at the possibilities and opportunities of including mediation in public, private and professional complaints handling processes. It will include:

- What complainants want
- What those who are complained about want
- Using mediation or using mediation skills?
- Barriers to mediation
- Mediation and first-tier complaints handling processes
- Mediation and Ombudsman/other second-tier complaints handling processes

The event includes the use of case studies and there will be the opportunity for discussion.

**CPD:** 3 hours  
**Costs:** £25 for members of the SMN, £50 for non-members  
*Organisational membership entitles two delegates at membership rates.*

To book a place, contact admin@scottishmediation.org.uk, with subject line: Mediation in the Complaints Handling Process

**Carolyn Hirst** is a former Deputy Scottish Public Services Ombudsman, a post she held from the formation of this Office in September 2002 until 2007. Before that she worked in Social Rented Housing for nearly 20 years, latterly as a Deputy Director of a Housing and Care Organisation. Carolyn now works as an independent consultant through her own company, Hirstworks. Her work includes conducting independent investigations, complaints system design, complaints training and complaints reviews. Carolyn works as a mediator and is a member of the Scottish Legal Complaints Commission Mediation Panel, the Edinburgh Sheriff Court Mediation Panel and is the External Mediation Practice Supervisor for Edinburgh Cyrenians. Carolyn is also a Visiting Lecturer at Queen Margaret University where she provides leadership for the content and delivery of the Professional Award and Certificate in Ombudsman and Complaint Handling Practice. Carolyn has also designed and delivered tailored training in Ombudsman practice for a range of public and private UK and Irish Ombudsman schemes.

**Richard Walter** is currently Corporate Affairs and Complaints Officer for the Scottish Ambulance Service, following a long history of complaints involvement with NHS Lothian. Richard’s experience of complaints handling goes back some 30 years and during 2008 he was a member of the Scottish Government Fit-For-Purpose Complaints System Action Group as part of the Professor Crerar review of scrutiny and complaints handling. He has worked jointly with many other public and private sector organisations on complaints. He was most recently a member of the Scottish Government Review Group on the NHS Complaints Procedure and has an active interest in Mediation following the Scottish Government pilot with Scottish Mediation Network. Richard chairs the NHS Complaints Personnel Association Scotland (NCPAS), a forum which assists in the development of professional practice, policy, procedures, regulations and legislation in respect of the management and administrative handling of complaints within the NHS. During 2005/2006, Richard was seconded to the Office of the Scottish Public Services Ombudsman (SPSO).
The Workplace and Employment Initiative Group (WEIG) are one of the Scottish Mediation Network’s Initiative Groups, focusing on Workplace and Employment mediation. We meet four times a year and are kindly hosted for our meetings by the Scottish Mediation Network at their offices at 18 York Place, Edinburgh, EH1 3EP, both for the venue and for refreshments (tea and coffee).

Our format is to have a main meeting 2-4pm (2 hrs CPD), with an optional additional CPD session (1 hour) using a real case study on a dilemma in mediation. For the main meeting, which is open to all SMN members, we usually have a business meeting which includes sharing current issues, and then an external speaker on topical issues or developments in mediation, particularly Workplace and Employment mediation. Please let us know if you would like to come to the next or future meetings so that we can make sure there are sufficient refreshments and seats!

The CPD extra session is run separately, and alternately precedes or follows the main meeting. This is based on one of our own members sharing a real dilemma in mediation through a real case study, suitably anonymised but still confidential. This is an opt-in group – ie if you would like to be a member and receive the case studies/notes of the shared learning /discussion, you need to opt-in and it is not a drop-in group.

Next Meeting

**Wednesday 6th June 2012, 2pm—4pm**

**Speaker:** Aileen Riddle, Mediation Partnership

**Topic:** Direction versus facilitation in mediation—what kinds of questioning techniques really work?

**Extra CPD Session—12.45pm**

**Speaker:** Elaine Masson, Empire HR

**Topic:** Mediation in the context of a disciplinary and grievance process –balancing the informal nature of the mediation process with the organisation’s need to consider due process

The following Meeting will be on Thursday 11 October (with the extra CPD session to follow at 4pm), and the topics are yet to be decided. We are asking all members to give feedback on suggested topics so that we can continue to meet Members’ interests.

Hope to see you in June!

*Linn Phipps, Chair, SMN WEIG*

*Please email admin@scottishmediation.org.uk if you would like to attend this group.*

The participants of the Workplace & Employment Initiative Group would like to pay tribute to the work of **Liz Law**, who is stepping down after 4 years as its Chair. Liz has led and moulded the WEIG into a diverse and interesting group, and worked tirelessly to bring in an array of external speakers and perspectives, and to encourage group members to lead on aspects of the group’s work and to make contributions. She has led and sustained the development of the group through a period of substantial change, both within the Scottish Mediation Network and in the external mediation environment. She has done this through the relevance of the content of the meeting, effective chairing to enable all to take part, and close liaison with SMN itself to plan and schedule regular meetings and circulate relevant information.

We wish Liz all the best. Liz will remain an active member of the group and we look forward to seeing her again soon.

*Linn Phipps, new Chair of the SMN WEIG, on behalf of the WEIG*
Embedding ADR in the Civil Justice System
16th May 2012
Apex International, Edinburgh

The Law Society of Scotland and Scottish Mediation Network, in collaboration with the Scottish Government are holding a conference to explore the practicalities of embedding ADR in the justice system of Scotland.

With the Government currently planning the implementation of Lord Gill’s report on the Scottish Civil Courts Review, this conference will provide an opportunity for members of the profession, the judiciary, mediators and other interested parties to consider whether integrating additional methods of resolving disputes can improve access to justice throughout society.

Keynote Speakers:
Roseanna Cunningham
Minister for Community Safety and Legal Affairs

John Lande
Isidor Loeb Professor, former director of LLM program in Dispute Resolution, University of Missouri School of Law

Speakers from the legal profession, judiciary and business will also inform the event. The format of the conference will include short presentations from a range of speakers, who have direct experience of mediation in action in varied contexts. After each presentation, delegates will have an opportunity to participate in a round table discussion, followed by a plenary debate on the issues raised.

At the end of the day, a closing plenary session will focus on how best to incorporate the process within the civil justice system.

CPD: 6.5 hours
Registration: 9.30—10.00am
Conference: 10.00am—4.30pm
Delegate Fee: £54 incl. VAT
FULLY BOOKED
Contact Law Society to join the waiting list

Learning outcomes—by the end of the event participants will have:
1. Considered a working definition of mediation and ADR
2. Discussed the role of mediation in the light of the Gill Review and the Making Justice Work programme
3. Identified and discussed the advantages mediation can bring to citizens and businesses in Scotland
4. Identified and discussed the situations where mediation may not be the best solution
5. Considered the current legislative and rules framework relevant to mediation
6. Debated all of the above with mixed groups of solicitors, policy makers, client representatives and judges so as to assist the participant in making critical assessment of the role of mediation
7. Identified what work might need to be undertaken to embed ADR in the justice system
MENTORS AVAILABLE

Jeanie Felsinger
Email: jfelsinger@grec.co.uk
Tel: 01224 576 792
Mobile: 01569 731016
Year qualified as a mediator: 2003
Type of mediation normally undertaken: Workplace, Discrimination

Mediation experience and expertise
Experience of working/mediating in high conflict disputes; issues relating to bullying, harassment and discrimination (primarily gender and race related). An aware, understanding and knowledge of how discrimination (whether institutional or personal) can be unrecognised and denied by the organisation and/or parties.

Would prefer to provide telephone mentoring service with occasional face to face meetings. Person would need to be in Aberdeen/Aberdeenshire area.

Marion Brown
Email: mmarionbrown@gmail.com
Tel: 01436 810787
Year qualified as a mediator: 2006
Type of mediation normally undertaken: Workplace, Family, Business, Small Claims (Telephone Mediation)

Mediation experience and expertise:
Experience of workplace mediation (external) and life within a family business. Long term involvement with SMN’s workplace and employment initiative group.

Background in family business, human resources (inc. formal qualifications). Also Registered Human Givens Practitioner (www.hgi.org)

Qualifications: BSc, MBA, Chartered MCIPD, HG. Dip. P., NOCN Certificate in Workplace Mediation

SEEKING A MENTOR

Derek Brown
Email: derekrbrown1306@hotmail.com
Tel: 0141 634 1726
Mobile: 07793 111421

Areas of interest
My main areas of interest would be in family, community, workplace and commercial mediation. However I am interested in gaining any real mediation experience before I can properly appreciate my own areas of interest. I am currently taking the MSc course in Mediation and Conflict Resolution.

My background has been in sales and marketing within the drinks industry, over the last 15 years, with experience of coaching sales staff and facilitating external sales courses.

LANDLORD & TENANT MEDIATION VOLUNTEER
sought for research and mediation practice

Cyrenians Homelessness Prevention Service has run a successful Landlord and Tenant Mediation Service available to anyone in the City of Edinburgh since June 2009.

• Are you interested in contributing to an exciting piece of research about patterns of conflict within the housing sector based on a 150 mediation cases?
• Are you excited about mediation?
• Have you already participated in a recognized mediation training?
• Are you ready to commit time to increase your knowledge and experience?

If so contact:
Cyrenians Homelessness Prevention Service
Norton Park
57 Albion Road
Edinburgh EH? 5QY
HPS@cyrenians.org.uk

or phone 0131 475 2556 and speak with Liz Law

www.cyrenians.org.uk
Come join us in Glasgow for the 5th Annual Summit — following the highly successful Switzerland Summit last year in Berne where 120 mediators, academics, health professionals, and professionals from other disciplines held informative presentations and conversations on the importance of elder mediation.

As the needs of families become more diversified and our population gets older, age related issues are steadily finding their way into a variety of fields of service. Increasingly, mediators are required to become more specialized in their training to meet this burgeoning demand. We invite you to the 2012 Summit to share what is happening in your country with others around the world as we advance the knowledge of how mediation with age related issues is changing the face of health care. Join with professionals from North America, Europe and other parts of the world to share information and develop new learnings.

The Elder Mediation International Network is busy arranging speakers and events. The Summit venue and on-site accommodations are currently in place. And for a glimpse of what you can experience in Glasgow and the rest of Scotland, check out: www.visitscotland.com

**5th World Summit on Elder Mediation**

**University of Strathclyde—Glasgow, Scotland**

**June 11-13, 2012**

**Topics will include:**
- Ethics
- Training & Credentialing
- Models for Elder Mediation
- Elder Abuse
- Dementia, Caregiving & Guardianship
- Legal issues
- What’s New in Research
- New Elder Mediation Initiatives
- Resource Teams—Impact on Elder Mediation Practice

**For more information email:**
admin@eldermediation.ca

**Visit our website:**
www.eldermediation.ca

**Registration April, 2012**
Mediation, Negotiation and Conflict Management Skills Training

Module 1: 26 - 28 September and 25 - 26 October 2012
Optional Mediator Assessment: 15 - 16 November 2012

CPD: up to 60 hours

Successful completion of the Assessment Module leads to
Core’s Certificate of Competence in Mediation Skills

Click here to view the course brochure.

“The Core course compares highly favourably against other courses I have attended including several Harvard courses.”

Early Bird rates available

This course is for decision-makers, managers, legal and other advisers, negotiators and anyone who has to deal with difficult situations, disputes or decisions. You will gain the skills to:

- Get to the heart of a problem
- Break deadlock
- Bring polarised parties to the table
- Generate options for mutually acceptable solutions
- Develop really effective negotiation skills
- Help to find innovative outcomes
- Work with difficult colleagues and contractors
- Use a process which works across all sectors and interests
- Save considerable time and expense for clients and others!

Register online or, for further information, contact Laura Rutherford on 0131 226 6564 or at laura.rutherford@core-solutions.com. See our website: www.core-solutions.com.

Launch of family mediation practice

Two experienced family mediators, Charlie Irvine and Alison Ebbitt, launch their new business on 18th May in Glasgow.

They say: ‘The Family Mediation Practice takes a new approach to family disputes. Working closely with legal practitioners we provide a professional, speedy and flexible service. Our facilitative approach enables clients to deal with divorce, separation, children, family business and succession problems. For more information see our website – www.familymediationpractice.com’

If you would like to attend the launch please contact Charlie (charlie@familymediationpractice.com) or Alison (alison@familymediationpractice.com)
ENHANCE YOUR CAREER
PG CERT MEDIATION
FLEXIBLE PART-TIME

The Postgraduate Certificate in Mediation is a new flexible, part-time course at Aberdeen Business School which combines interactive online learning with on-campus attendance.

The course is suitable for those who wish to qualify as professional mediators as well as those with an interest in mediation who would like to enhance their skills to assist in resolving disputes in their professional or personal life.

COURSE CONTENT INCLUDES

- Theory & Principles of Conflict Resolution
- Mediation in Context
- Mediation in Practice
- Advanced Mediation Practice

FIND OUT MORE

www.rgu.ac.uk/mediation
E: myfuture@rgu.ac.uk
T: 01224 262203