



Mediation Clinic Annual Report

2021

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Introduction from Director

In October 2020 I wrote about the Mediation Clinic’s work “before and during the pandemic.” A year later the words “after the pandemic” seem premature, with scientists and politicians now speaking of “endemic.” What is clear, however, is how much everyday activity continues and how hard the Clinic’s volunteers have worked in the past 12 months to ensure ordinary people have access to high quality, free mediation when they need it.

This report sets out what has been achieved, both in terms of sheer numbers of cases mediated and in the esteem in which the Mediation Clinic is held. In the rest of the report will read about a doubling of case numbers, two major awards and the development of our innovative housing mediation project. In my Director’s report I explain more about what goes on ‘under the bonnet’ of the Clinic’s public service.

The annual report also gives me the opportunity to say thanks to the many people without whom Strathclyde Mediation Clinic couldn’t function. I’m particularly grateful to professional mediators and students who have committed themselves to developing their skills and putting them at the service of their community. This endemic/pandemic has reminded us how important that is.



Charlie Irvine
Director, Mediation Clinic

About the Mediation Clinic

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

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

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

If you would like to become a supporter of the clinic please visit our [webpage](#) and complete the relevant form.

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.

Chair's Report (2020-2021)

This year has, I think, been a much easier year for the Clinic, with our mediators having adapted their skills and mastered the art of remote mediation. In fact, we have started to experience the benefits of remote mediation and administration.

The Clinic has had double the number of mediations compared to last year and continues to serve sheriff courts in four sheriffdoms (Glasgow and Strathkelvin, North Strathclyde, Tayside, Central and Fife and, since February, South Strathclyde, Dumfries and Galloway). The Clinic's success rate has dropped slightly to just under 60% - something for the new Board to look at.

Meetings

The Board held a total of ten meetings during the course of the year, all of which were very well attended. Thank you to all those who gave up their time to attend meetings and carry out various other tasks for the Clinic, not least of which was organising the UK's first Mediation Clinic Conference. The Board appointed a working group, made up of Charlie Irvine, Bill Porterfield, Sophie Revesz, Ilan Bass and Sandy Sanghera, to organise the Conference. They did a fantastic job of making it all happen. Thanks also to Sophie who ensured that minutes were kept and distributed them to Board members very efficiently (normally within a day or two of our meeting). And finally, thanks to Charlie, who is always there as director and supporter of all of the activities of the Clinic.

Law Awards

The Mediation Clinic was, for the third consecutive year, shortlisted for the Scottish Legal Awards 2021 in the category of "Community Contribution Award". Unlike last year, when the awards were held remotely, this year saw a return to normality and a gala dinner in the ballroom of the Double Tree Hilton Hotel in Glasgow. The dinner was attended by six members of the Clinic on the 23rd of September. Last year, we were co-winners of the award. This year, we have the award to ourselves. The significance of the award is not only an endorsement of the quality of the work that we do, but a recognition by the legal fraternity of the significance of mediation to the profession.

Telephone and Online Mediation

Following on the practice of last year, members of the Clinic continued to mediate remotely. I believe that we have also discovered the benefits of this form of process, in particular the convenience for both our mediators and the parties. Much time is saved, and expenses are curtailed. We are also able to draw from a larger pool of mediators, including foreign students on the course who, after graduating, have returned home. The Clinic is a signatory to the World Mediators Alliance on Climate Change ([WoMACC](#)) green pledge. Our mediators are therefore committed to minimising the environmental impact of the mediation in the ways outlined in the pledge, including avoiding unnecessary travel and using screen-sharing/video technology where possible. Remote mediation assists greatly in complying with this objective.

Peer Review Sessions

In the last few months, the Clinic has held several Peer Review Sessions. I believe that these are so important to the reflective part of the process and provide a great opportunity for mediators to get personal feedback on any uncertainties that they may have in their mediation practice. They also provide endorsement for what mediators are doing well. It is also important to maintain the quality of our practice standards and ensure that we provide a professional service to parties, and peer supervision is one of the ways in which we can meet this objective.

CPD events

In furtherance of our commitment to providing a high-quality mediation service, we hold regular CPD workshops to keep our mediators up to date on latest practice techniques and innovations. During the last year, we held three CPD workshops, two jointly with Edinburgh Sheriff Court Mediation Service. In December I presented a session entitled '*Bargaining in the Shadow of the Law ... Under a Cloud – Testing Boundaries of Confidentiality!*' Heloise Murdoch, Coordinator of the Edinburgh Mediation Service, presented a second session on *The Practicalities of Remote Mediation*.

In March Charlie Irvine presented a session for our own mediators on *Drafting a Binding Mediation Agreement* while Summary Sheriff D Livingston provided a *Simple Procedure Rules Recap* from the perspective of one of judges charged with their operation.

In May a session on *Practitioner Enquiry and Reflective Practice* was led by Gordon McKinlay, Head of Service for Renfrewshire Education and one of our alumni; then Ruth Unsworth, Head of Mediation and Wellbeing at University of St Andrew, spoke on *Emotional Intelligence and Mediation*.

Housing Mediation Project

Pauline McKay was appointed as the new Housing Mediation Project Officer in January this year. Since then, Pauline has done a huge amount of work in promoting and advancing this branch of the Clinic. In June, a Mock Housing Mediation was held, and 123 people signed up for this event, including delegates from Shelter, Glasgow City Council, solicitors, members of voluntary organisations and Land Commission Scotland.

Information events have been held with Safe Deposits Scotland, the Scottish Landlords Association and the First Tier Housing Tribunal, and one is scheduled with Citizens Advice at Parkhead in the next week.

Expansion of the Clinic to South Strathclyde, Dumfries and Galloway

The Clinic held a Q&A Session with the Sheriff Principal, sheriffs and support staff in January. Courts in the sherrifdom began referring cases in early February. See the Statistic at Appendix 1 for more details.

Mediation Conference in 2021

The Clinic held the first UK Mediation Clinic Conference in February this year. The Conference was held online and attracted a large number of attendees, with over 80 logged in throughout the day. Our keynote speaker was Professor Carrie Menkel-Meadow, who spoke on '*Clinical Education and the Growth of American Mediation.*' Charlie Irvine spoke on '*The Place of Useful Learning: from the Academy to the Community*' and Craig Cathcart interviewed Margaret Mitchell MSP about her recent Mediation (Scotland) Bill consultation, which planned to extend the Clinic's approach to all civil courts. There were also four workshops presented in the afternoon.

Feedback on the conference was very positive and we are planning a second Mediation Clinic Conference for early 2022. The proposed theme is developing reflective practice in the context of clinical education.

Conclusion

I would like to thank all the Board members who have made time available to contribute to the smooth running of the Clinic, Pauline for all her administrative assistance and Charlie for keeping the Clinic together in challenging times. And, of course, all those mediators without whom there would be no Clinic.

I have been on the Board for four years, and in the Chair for the last three. I believe that it is time to stand down and make way for a new Chair, with fresh ideas and innovations. I have enjoyed my time on the Board immensely and will continue to be actively involved in all Clinic activities.

Patrick Scott
Chair: Mediation Clinic
4 October 2021

Director's Report

What did we do?

As I said in my introduction, despite serious challenges the Clinic provided more mediations in 2020/21 than in any previous year. In detail:

	<u>This year</u>	<u>Last year</u>
Referred by the courts	252	156
Mediated	125	60
Settled	73	44

Referred by the courts?

The raw numbers conceal a huge amount of volunteer time and effort. When sheriffs suggest mediation they ask parties to contact the Clinic. Around 80% do, and a crucial next step is for a student or mediator to arrange a phone conversation, known as an 'intake call.' The Clinic provided 324 intake calls in 2020-21, (180 claimants; 144 respondents). These calls last from 10 to 45 minutes with an average of around 15 minutes. As well as asking what the case is about and explaining how mediation works they help build a human connection with the Clinic. Unrepresented parties are often very anxious about their case and the calls offer reassurance and practical information. If the caller agrees to take part, and if we conclude that the case is suitable, we approach the other party. I have added a copy of our intake form at appendix 4 to illustrate the sort of information we need to gather before proceeding.

A closer look at the statistics reveals a range of reasons for cases not mediating. 15 cases settled without mediation (a positive from the courts' perspective); the claimant withdrew in another 8 and the respondent in 15; 18 are still to take place; and 4 were considered unsuitable for mediation. This last category is small but significant: one of the Clinic's guiding principles is that both parties to a mediation must be free to make their own informed decisions. We will not force anyone into mediation against their will, and on occasion we may take the view that one party is at risk of coercion even if they say they want to mediate. Some parties tell us they are only mediating because they do not want to look bad to the sheriff; they are simply going through the motions. In these cases we may relieve them of this burden by assessing unsuitability. Appendix 4 contains a template of the letter we send where the Clinic has taken the view that the case is unsuitable.

Mediated?

Once both parties have agreed to take part in mediation we allocate two mediators and arrange a suitable date. One enduring by-product of the pandemic is remote mediation. 83% of cases took place over Zoom, the remainder being conducted by telephone or a combination of phone and Zoom. As well as making mediation more convenient and letting us cover more of the country, our growing confidence with remote mediation has enabled the Clinic to sign the [Mediators' Green Pledge](#). This commits us to continue working in such a way as to minimise our carbon footprint. While it does not rule out a return to face-to-face mediation, for many of the small claims we deal with Zoom or telephone are ideal, and minimise our environmental impact.

Co-mediation is central to the Clinic's approach as it lets our postgraduate students and less experienced mediators work alongside a more experienced person until they are ready to act as 'lead mediator' themselves. As well as watching and learning in the sessions themselves, student mediators often de-brief with the lead mediator after the mediation; this helps develop the habit of reflective practice. Lead mediators often act as informal, or formal, mentors to the students, for which I am very grateful.

Settled?

Over the years we have tried to resist viewing success only through the lens of settlement rates. Clients often speak highly of the mediators' input even where the case doesn't settle. We are aware that a number of apparently unsuccessful matters settle in the weeks following the mediation itself. Sometimes our mediators assist with follow-up emails; sometimes parties resolve the case unaided.

Where parties do reach a mutually acceptable outcome our mediators record this in a Settlement Agreement (appendix 4). This forms the basis of what is in effect a binding contract between the parties. Having said that, people almost always act on undertakings made in mediation, in striking contrast to court decrees. This phenomenon has been noted in other jurisdictions and I would speculate that people are more likely to act on an agreement they have shaped themselves.

For a more complete picture of the Clinic's impact on our clients, see the summary of our feedback questionnaire in appendix 5. The overall impression is of gratitude and satisfaction for the mediators' assistance in the midst of often very difficult situations.

Public Policy

Last year I outlined recent developments from Scottish Government and its Dispute Resolution Delivery Group. I was even a little (too) optimistic that progress would be made in addressing the postcode lottery in Simple Procedure, where unrepresented parties can access a free mediation service in some parts of Scotland but not others. Sadly the pandemic seems to have put reforms on hold. It remains the Clinic's hope that the government will act on its 2021 manifesto commitment: *'We will expand the use of mediation and arbitration to ensure alternative dispute resolution is a central part of our legal system.'*

From my perspective it is becoming increasingly troubling that courts are dependent on highly skilled and committed mediators providing their services for free. The Simple Procedure Rules with their emphasis on alternative dispute resolution were enacted in 2016; yet as far as I am aware no resources have ever been made available to ensure this vision becomes a reality. Some jurisdictions fund the mediation of low value claims through legal aid; others ensure the growth of a buoyant mediation sector across the value chain, making pro bono work part of the mix as it is for solicitors; still others pass mediation legislation (Ireland's 2018 Mediation Act being a recent example). Any or all of these approaches would be welcome. For more detailed proposals policymakers need look no further than Scottish Mediation's 2019 report, [Bringing Mediation into the Mainstream in Civil Justice in Scotland](#).

Governance

The board has continued to provide thoughtful support and guidance for the Clinic's work. Here again Zoom has expanded the range of what's possible. In the past year Jonathan Rodriguez (India), Sandy Sanghera (Canada) and Ilan Bass (Italy) have been able to join our meetings via Zoom. And home-

based members have avoided travelling from remoter parts of Scotland, including the Isle of Arran, the Highlands and even Edinburgh! Thanks also to Bill Porterfield, Irene Murray, Craig Cathcart, Sophie Revesz, Pauline McKay, Alastair Sharp, Marc O’Krent and our Chair, Patrick Scott.

That brings me to an ending and a beginning. The ending first: our chair for the last three years, Patrick Scott SC, is standing down from the board. He has put in a great deal of time and energy and will be greatly missed. For this, many, many thanks.

The beginning is that this creates an opportunity for someone new to step into the chair’s role. The Mediation Clinic relies on fresh thinking and this is a great time to get involved. I look forward to working with the next person to take on this important role.

More Thanks

I began this report by highlighting the contribution of those who volunteer to do intake calls. These are vital to the work and I’m astonished at the number of calls completed in the last year. Almost all of these were conducted by the following folk:

Ben Cramer	Mediator
Pauline McKay	Mediator
Sophie Revesz	Mediator
Patrick Scott	Mediator
Thomas Scade	Postgraduate student
Neil Aitken	Undergraduate
Alexandra Brown	Undergraduate
Thomas Lam	Undergraduate
Elise Marshall	Undergraduate
Arun Smith	Undergraduate

Another thanks goes to Arch Resolution, a provider of community mediation in North Yorkshire, for offering our students and volunteers the opportunity to take part in some of their online mediations over the past year. This has been a rich learning experience. The contract for mediation in North Yorkshire has just been taken over by Restorative Solutions and we look forward to working with them.

I would also like to thank our most significant funder, SafeDeposits (Scotland) Trust. For the third year running the trust has funded our housing mediation project (see report below). This funding has been visionary and has enabled us to lay the foundations of a service that will support some of Scotland’s most vulnerable people in dealing with disputes in the private rented sector.

And that leads me to my final thanks. In January Pauline McKay, our longstanding administrator and graduate of the programme in Mediation and Conflict Resolution, was appointed as our third Housing Mediation Project Development Worker. Everyone involved in the Clinic has been impressed at the energy and organisation Pauline has brought to the role. At the same time she has somehow enabled the Clinic itself to have its busiest year ever, while continuing to volunteer as a mediator and intake worker.

It seemed entirely fitting, then, that Pauline was able to join a group of us at the Scottish Legal Awards Annual Dinner in September. For the second year running the Clinic was selected to receive the Community Contribution Award. After last year’s Zoom event it was an even greater delight to gather in person and receive this recognition from the Scottish legal profession. Please excuse the indulgence of sharing a rare photograph of us all looking rather smarter than usual!



Charlie Irvine
Director
04 October 2021

Housing Mediation Project (January 2021 – September 2021)

In January this year we relaunched the Housing Mediation Project within Strathclyde Mediation Clinic with thanks to funding from [SafeDeposits Scotland Charitable Trust](#). The aim of the project is to offer landlords, tenants and agents a cost-effective, pragmatic and less stressful means of resolving their disputes consensually while helping them preserve relationships. Whilst contributing to good practice in the sector we hoped to contribute towards the reduction in the likelihood of evictions with their attendant social cost. We felt the pandemic heightened the need for such a service.

Internal: Earlier in the year we launched our Housing Mediation specific [webpage](#) which contains information on the project as well as useful resources for Tenants, Landlords and Mediators. We also produced a new flier that was emailed to many across the housing and advice sector in Scotland and we have received some enquiries on the back of this.

We have created a new Housing Mediation feedback form in order to focus on feedback from those parties that have had a housing case mediated.

External: The housing and advice sector have been contacted widely and we have forged links with Citizens Advice Service and through them alongside Parkhead CAB we are piloting a referral scheme for suitable housing cases. We hope to expand this to Drumchapel CAB.

We are also in talks with Glasgow City Council PRS Housing & Welfare Team and we hope to start a pilot referral service with them in the coming months. Their aim is to avoid homelessness at all costs. Our service fits well with them in dealing with landlords and tenants and rebuilding the relationship either to allow continued accommodation with the existing landlord or until another property is found for the tenant.

We have continued to highlight the service via articles in Landlord Focus, Scottish Housing News and Scottish Mediation as well as via social media.

Our recent webinar showcasing a “Mock Housing Mediation” saw many participants (120) join us from the Scottish Housing Sector, Landlord Services, Local Government and Advice Services.

The session highlighted the complexity of housing disputes. Questions illustrated the dilemmas mediators face, including how active they should be in making parties aware of their legal responsibilities, and when to step back to enable constructive conversation between tenant and landlord. They also demonstrated a wide range of expectations within the PRS about what mediation is and what it ought to do. We hope this will lead to a better understanding across the sector of how mediation can help in a variety of situations.

Feedback was very positive. Participants told us the session gave them an insight into how mediation works and how it can serve a useful purpose in resolving disputes. Some felt better placed to explain the process to service users. The session also highlighted that the project would benefit from external input in the form of information sessions from advice organisations.

Forward Planning

We have around 17 mediators within the clinic who have expressed an interest in housing mediations. In order to support them, several talks and presentations were arranged over August and September. These included representatives from CAB, First Tier Tribunal, Scottish Association of Landlords and SafeDeposits Scotland.

We aim to continue to offer these information sessions.

We also are planning a further “mock mediation” to the sector and beyond as part of COP26 in November 2021. Feedback from the previous session was very positive and we would expect a similar attendance.

There is an appetite for mediation across the sector and although the bulk of our referrals come from the sheriff courts, we hope by continuing to foster relationships with eg Shelter, CAS, SAL, Property Managers, Crisis, TPAS (Tenant Participation and Support) and SafeDeposits as well as the wider advice services, these numbers will increase.

The figures below show our housing caseload from October 2020-September 2021.

Pauline McKay
Housing Mediation Development Worker
01 October 2021



Housing - all areas: October 2020-September 2021	Airdrie	Ayr	Dumfries	Glasgow	Kilmarnock	Paisley	Self	FTT	TOTAL
No of Referrals	4	1	1	18	3	2	8	1	38
No of Referrals that turned into cases	2	1	1	7	3	1	3	1	19
No of Cases that Mediated	2	1	1	4	3	1	3	1	16
No of Cases that Settled	1	1	1	4	2	1	2	1	13
No of Cases that did not settle	1	0	0	0	1	0	1	0	3
No of Cases Partial Settlement	0	0	0	0	0	0	0	0	0
No of Cases Settled without Mediation	0	0	0	2	0	1	0	0	3
No of Cases Mediated but pending outcome	0	0	0	0	0	0	0	0	0
No of Cases Mediated by Zoom	2	1	1	4	3	1	3	1	16
% of Cases from Referrals	50%	100%	100%	39%	100%	50%	38%	50%	50%
% of Referrals that mediated	100%	100%	100%	57%	100%	100%	100%	84%	84%
Settlement rate %	50%	100%	100%	100%	67%	100%	67%	81%	81%
No of Cases - no response from either party	0	0	0	1	0	0	0	1	2
No of Cases that did not mediate - but contact from one party	1	0	0	3	0	0	1	5	10
No of Cases that did not mediate as claimant withdrew/declined	0	0	0	2	0	0	0	2	4
No of Case that did not mediate as respondent withdrew/decline	0	0	0	1	0	0	1	2	4
No of Cases that did not mediate -used another mediation service	0	0	0	0	0	0	0	0	0
No of Mediations to be arranged	1	0	0	2	0	0	0	0	3
No of Mediations arranged by not yet taken place	0	0	0	0	0	0	0	0	0
No of intakes in progress	0	0	0	2	0	0	1	0	3
No of Party Action Required in progress	0	0	0	1	0	0	1	0	2
Types of Housing Case Referrals	Airdrie	Ayr	Dumfries	Glasgow	Kilmarnock	Paisley	Self	FTT	TOTAL
Landlord/Tenant	0	1	0	1	3	0	4	0	9
Factors	4	0	1	16	0	2	2	1	26
Neighbourhood	0	0	0	1	0	0	2	0	3

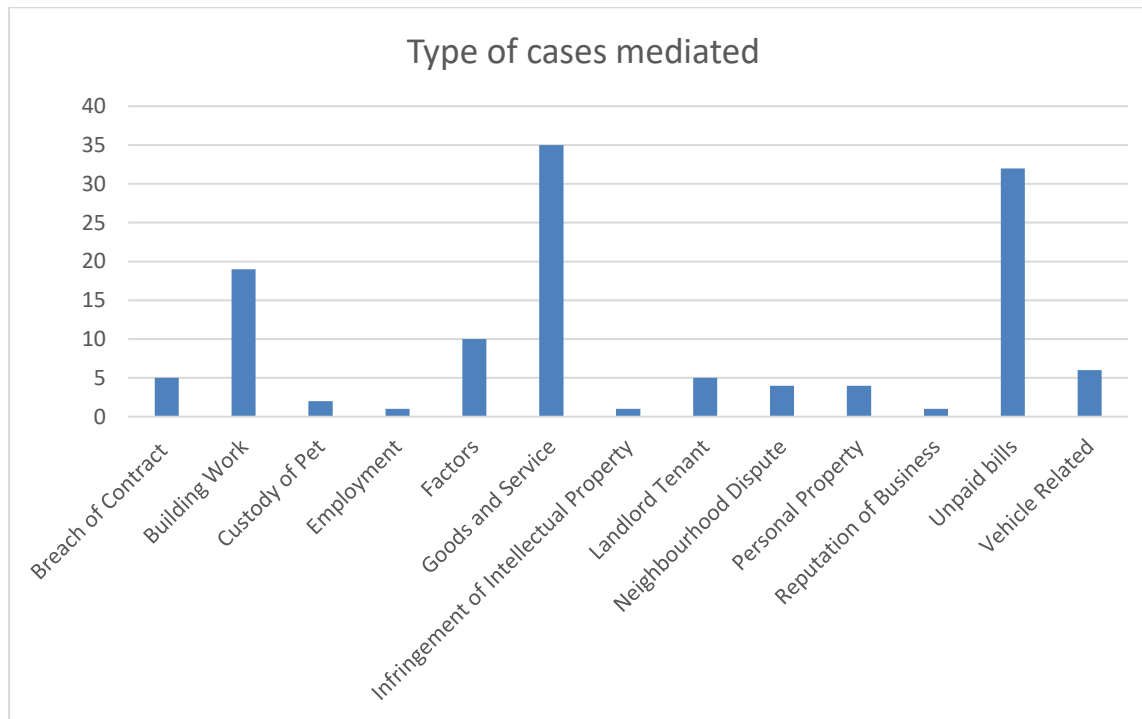
Appendix 1: Mediation Clinic Stats: October 2020 – September 2021

				North Strathclyde					
SIMPLE PROCEDURE TO 01 OCT 2020 - 30 SEPTEMBER 2021	Glasgow	Housing *	Elgin	Campbelltown	Dumbarton	Kilmarnock	Oban	Paisley	Sub Total
No of Referrals	70	38	2	1	0	35	2	14	52
No of Referrals that turned into cases	25	20	1	1	0	35	2	11	49
No of Cases that Mediated	18	17	1	1	0	35	2	11	49
No of Cases that Settled	10	13	1	1	0	23	2	6	32
No of Cases that did not settle	7	3	0	0	0	9	0	5	14
No of Cases Partial Settlement	0	0	0	0	0	1	0	0	1
No of Cases Settled without Mediation	4	3	0	0	0	0	0	0	0
No of Cases Mediated but pending outcome	1	1	0	0	0	1	0	0	1
No of Cases Mediated by Zoom	13	16	1	1	0	28	1	9	39
No of Cases Mediated by Telephone Conference	5	1	1	0	0	5	1	1	7
No of Cases Mediated by Zoom/Email/Telephone	0	0	0	0	0	2	0	0	2
No of Cases Mediation by Shuttle Telephone	0	0	0	0	0	0	0	1	1
Unsuitable for Mediation	1	0	0	0	0	0	0	0	0
% of Cases from Referrals	36%	53%	50%	100%	0%	100%	100%	79%	94%
% of Referrals that mediated	72%	85%	100%	100%	0%	100%	100%	100%	100%
Settlement rate %	56%	76%	100%	100%	0%	66%	100%	55%	65%
No of Cases - no response from either party	14	1	0	0	0	0	0	0	0
No of Cases that did not mediate - but contact from one party	13	5	1	0	0	0	0	1	2
No of Cases that did not mediate as claimant withdrew/declined	2	2	0	0	0	0	0	1	1
No of Case that did not mediate as respondent withdrew/decline	7	2	0	0	0	0	0	0	0
No of Cases that did not mediate used alt service	1	0	0	0	0	0	0	0	0
No of Mediations to be arranged	3	3	0	0	0	0	0	0	0
No of Mediations arranged by not yet taken place	2	0	0	0	0	0	0	1	0
No of intakes in progress	2	3	0	0	0	0	0	0	0
No of Party Action Required in progress	5	2	0	1	0	0	0	1	0

	South Strathclyde						
SIMPLE PROCEDURE TO 01 OCT 2020 - 30 SEPTEMBER 2021	Airdrie	Ayr	Dumfries	Hamilton	Lanark	Stranraer	Sub Total
No of Referrals	16	9	12	6	3	4	50
No of Referrals that turned into cases	8	6	5	3	1	4	27
No of Cases that Mediated	6	4	4	3	1	2	20
No of Cases that Settled	1	0	3	2	0	2	8
No of Cases that did not settle	4	2	1	1	1	0	9
No of Cases Partial Settlement	0	0	0	0	0	0	0
No of Cases Settled without Mediation	3	0	0	0	1	0	4
No of Cases Mediated but pending outcome	0	3	0	0	0	0	3
No of Cases Mediated by Zoom	4	4	4	2	1	1	16
No of Cases Mediated by Telephone Conference	1	0	0	0	0	1	2
No of Cases Mediated by Zoom/Email/Telephone	0	1	0	0	0	0	1
No of Cases Mediation by Shuttle Telephone	1	0	0	1	0	0	2
Unsuitable for Mediation	0	0	1	0	0	0	1
% of Cases from Referrals	50%	67%	42%	50%	33%	100%	54%
% of Referrals that mediated	75%	67%	80%	100%	100%	50%	74%
Settlement rate %	17%	0%	75%	67%	0%	100%	40%
No of Cases - no response from either party	2	0	0	0	0	0	2
No of Cases that did not mediate - but contact from one party	1	1	3	1	0	0	6
No of Cases that did not mediate as claimant withdrew/declined	2	0	0	0	1	0	3
No of Case that did not mediate as respondent withdrew/decline	0	0	1	1	0	0	2
No of Cases that did not mediate used alt service	0	0	0	0	0	0	0
No of Mediations to be arranged	0	1	0	0	0	0	1
No of Mediations arranged by not yet taken place	1	0	1	0	0	2	4
No of intakes in progress	2	2	2	1	0	0	7
No of Party Action Required in progress	0	1	0	1	0	1	3
* All areas and self-referrals							

	Tayside, Central and Fife						TOTAL SP	Miscellaneous				ALL CASES TOTAL	Enq not taken any further
	Alloa	Falkirk	Dunfermline	Kirkcaldy	Stirling	Sub Total		CAB	Law Clinic	Self	Subtotal		
SIMPLE PROCEDURE TO 01 OCT 2020 - 30 SEPTEMBER 2021													
No of Referrals	6	12	4	6	9	37	252	1	1	13	15	267	6
No of Referrals that turned into cases	3	7	3	2	7	22	145	1	0	3	4	149	
No of Cases that Mediated	2	6	3	2	5	18	123	0	0	2	2	125	
No of Cases that Settled	0	2	2	1	4	9	73	0	0	0	0	73	
No of Cases that did not settle	2	3	1	0	1	7	40	0	0	2	2	42	
No of Cases Partial Settlement	0	0	0	0	0	0	1	0	0	0	0	1	
No of Cases Settled without Mediation	2	0	0	1	1	4	15	0	0	0	1	16	
No of Cases Mediated but pending outcome	0	1	0	0	1	2	8	0	0	0	0	8	
No of Cases Mediated by Zoom	1	6	2	3	5	17	102	0	0	2	2	104	
No of Cases Mediated by Telephone Conference	1	0	1	0	0	2	18	0	0	0	0	18	
No of Cases Mediated by Zoom/Email/Telephone	0	0	0	0	0	0	3	0	0	0	0	3	
No of Cases Mediation by Shuttle Telephone	0	0	0	0	0	0	3	0	0	0	0	3	
Unsuitable for Mediation	0	1	0	0	1	2	4	0	0	0	0	4	
% of Cases from Referrals	50%	58%	75%	33%	78%	59%	58%	0%	0%	0%	27%	56%	
% of Referrals that mediated	67%	86%	100%	100%	71%	82%	85%	0%	0%	0%	50%	84%	
Settlement rate %	0%	33%	67%	50%	80%	50%	59%	0%	0%	0%	0%	58%	
No of Cases - no response from either party	0	0	1	0	0	1	18	0	0	0	0	18	
No of Cases that did not mediate - but contact from one party	0	0	0	1	0	1	28	0	1	4	5	33	
No of Cases that did not mediate as claimant withdrew/declined	0	0	0	0	0	0	8	0	0	1	1	9	
No of Case that did not mediate as respondent withdrew/decline	1	3	0	0	0	4	15	0	0	0	0	15	
No of Cases that did not mediate used alt service	0	0	0	0	0	0	1	0	0	0	0	1	
No of Mediations to be arranged	1	0	0	0	1	2	6	1	0	0	1	7	
No of Mediations arranged by not yet taken place	0	1	0	0	0	1	7	0	0	1	1	8	
No of intakes in progress	1	0	0	0	1	2	14	0	0	0	0	14	
No of Party Action Required in progress	0	1	0	2	0	3	13	0	0	0	0	13	
* All areas and self-referrals													

Types of cases mediated	No
Breach of Contract	5
Building Work	19
Custody of Pet	2
Employment	1
Factors	10
Goods and Service	35
Infringement of Intellectual Property	1
Landlord Tenant	5
Neighbourhood Dispute	4
Personal Property	4
Reputation of Business	1
Unpaid bills	32
Vehicle Related	6
Total	125



Appendix 2: Financial Summary

01 October 2020 – 30 September 2021

Mediation Clinic Budget: 15410 GEN 1351 - 113

Balance at 01 October 2020			£4448.11
<u>Income</u>			
Salaries incorrectly charged to account	£4009.27		
Conference Feb 2021 income	£1239.21		
Transfer from Faculty	<u>£5190.96</u>		
		<u>£10439.44</u>	
<u>Expenditure</u>			
Insurance Services	£320.00		
Registration for Awards	£168.00		
Student Expenses for Course	£ 72.00		
Consumables	£ 36.00		
Web services for Conference Feb 2021	£100.00		
Award from KD Media	<u>£117.38</u>		
		<u>£813.38</u>	
Balance at 30 September 2021			<u>£14074.17</u>

Housing Mediation Development Project Budget: K171558-101

Balance at 01 October 2020			£4689.15
<u>Income</u>			
SafeDeposits Scotland Trust	<u>£14,965.00</u>		
		<u>£14965.00</u>	
<u>Expenditure</u>			
Salaries	£10,244.41		
Apprentice Levy	<u>£ 38.74</u>		
		<u>£10283.15</u>	
Balance at 30 September 2021			<u>£9371.00*</u>

*This includes £2500 for travel and £992.34 also set aside for consumables.

Appendix 3: List of Members

Staff

Charlie Irvine, Director

Pauline McKay, Housing Mediation Development Worker

Board Members: 2020-2021

Charlie Irvine, Director

Patrick Scott, Chair

Sophie Revesz, Secretary

Pauline McKay, Treasurer

Ilan Bass

Craig Cathcart

Irene Murray

Marc O’Krent

Bill Porterfield

Jonathan Rodrigues

Sandy Sanghera

Alastair Sharp

List of Mediators as at September 2021

Lead Mediators	Student and Co-Mediators	Observers
Barclay Ailie	Arada Farid	Horne Simon
Bicknell Rachael	Armstrong John	McCauley Claire
Boyd Andrew	Belle Sainey	McEntegart Tom
Brys Catherine	Crawford Ross	McKay Sharon
Cramer Ben	Elliot Katie	Parker Aileen
Davies Gordon	Gunn Maureen	
Kirkwood Paul	Hantsch Isabel	
Linn Phipps	Humphries Gary	
Marc O'Krent	Ilan Bass	
McKay Pauline	Kelly Stuart	
McKinlay Gordon	Morawski Marcin	
Poyntz Roy	Murray Irene	
Scott Patrick	Nail Steve	
Scuse Jeremy	Porterfield Bill	
Sharp Alastair	Reindert Eijkman	
Smilie Margaret	Revesz Sophie	
Thompson Carolyn	Rodrigues Jonathan	
Welsh Alison	Sanghera Sandy	
Woolfson Giles	Scade Thomas	
	Scott Sacha-Analise	
	Stewart Margaret	
	Teggin Victoria	
	Watson Leon	

Appendix 4: Examples of Mediation Clinic Forms

Intake Form



To be read to all parties:

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

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

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

Party 1

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

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

Obtained in person / telephone / email / zoom

Obtained by: _____

Party 2

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

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

Obtained in person / telephone / email / zoom

Obtained by: _____

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

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

Claimant(s) or Party A

What is the situation?

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

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

What do you hope to get out of mediation?

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

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

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

Any particular concerns?

Who will be attending the mediation?

Mediation Type (Please bold or underline):

Zoom video

Zoom with Camera Off

Telephone Conference

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

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

Availability:

Date:

Duration of Call:

Respondent(s) or Party B

What is the situation?

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

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

What do you hope to get out of mediation?

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

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

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

Any particular concerns?

Who will be attending the mediation?

Mediation Type (Please bold or underline):

Zoom video

Zoom with Camera Off

Telephone Conference

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

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

Availability:

Date:

Duration of Call:

Unsuitable Letter



Dear

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

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

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

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

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

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

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

Yours sincerely

Charlie Irvine
Director, Mediation Clinic

Settlement Agreement



SETTLEMENT AGREEMENT

Case No:

This document records the settlement agreement between

(Party A) : _____

and

(Party B) : _____

reached in mediation on: _____ (date).

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

_____ (name) on _____ (date)

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

The Parties agree as follows:

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

Signed:

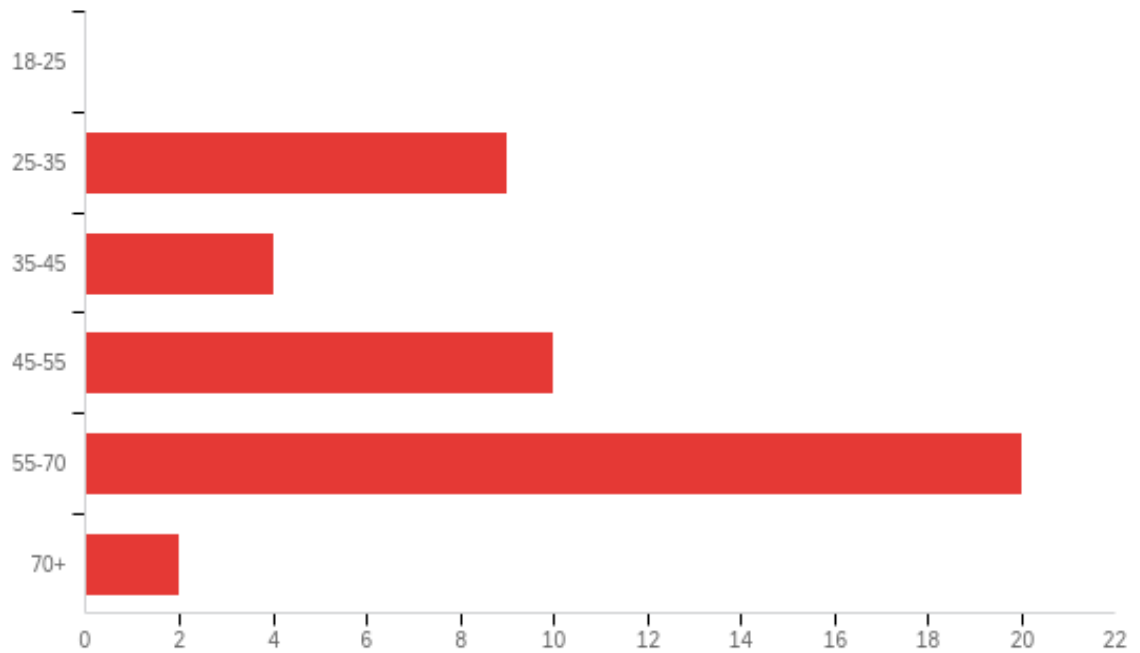
(Mediator) (Date) Witness

Appendix 5: Summary of Feedback

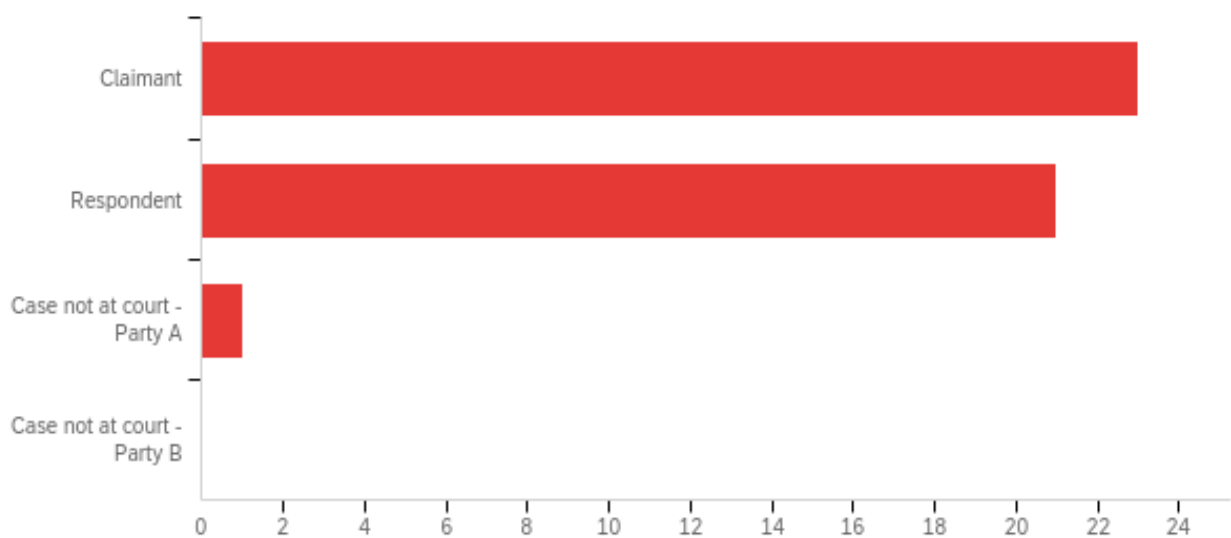
Mediation Clinic Feedback Questionnaire

Based on 46 responses AGM year to September 2021

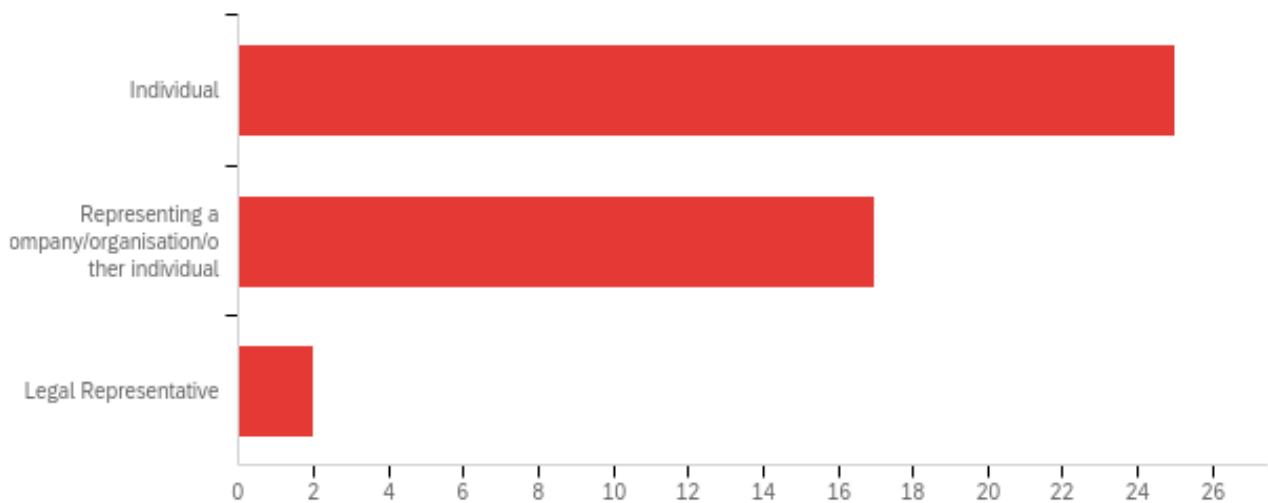
Q1 - Age range



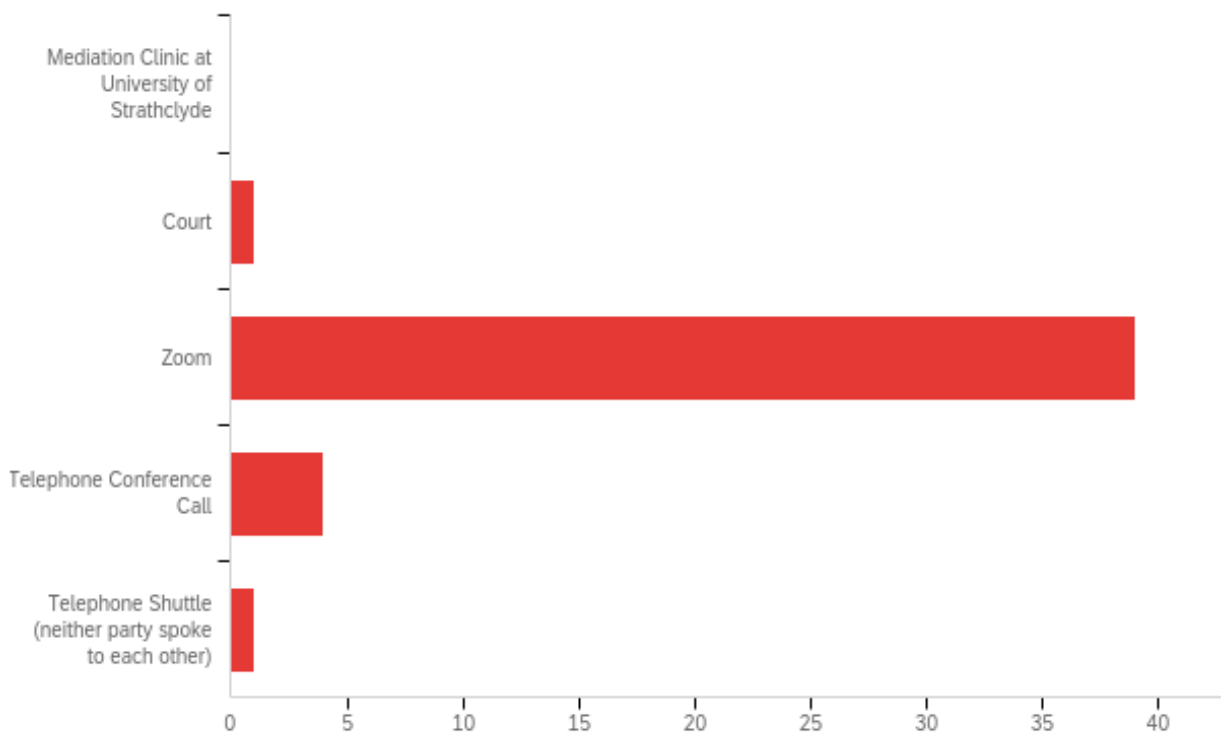
Q2 - Were you the Claimant or the Respondent in this action?



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



Q4 - Where did the mediation take place?



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

No

No, remote mediation meant little disruption to my day and as such I felt less inconvenienced at having to mediate.

Remote mediation gave perhaps a less confrontational option

I had no preference

Face to face. Could have conveyed more information and feelings. Zoom felt stilted and hindered all wanted to say.

The Zoom meeting was easy and it eliminated travel.

Remote had the benefits of face to face while also allowing for mute function and changing to breakout rooms easier. In some cases there would be no substitute for face to face.

Zoom worked very well

No - Covid

Zoom was fine for me, it was convenient and I was in my own surroundings feeling more at ease.

Remote mediation is much more convenient, it maximises time in the office.

Face to face, not technically minded

I liked it because we didn't have to meet face to face and the mediators did a great job of communicating for both parties.

No

No. Preferred not being able to see the Respondent.

no

Zoom was ok but difficult to interject and having to listen to claimant for 30 mins without interruption seemed imbalanced.

No

Yes

Not fussed

This was my first time and I went well. Wasn't very sure initially

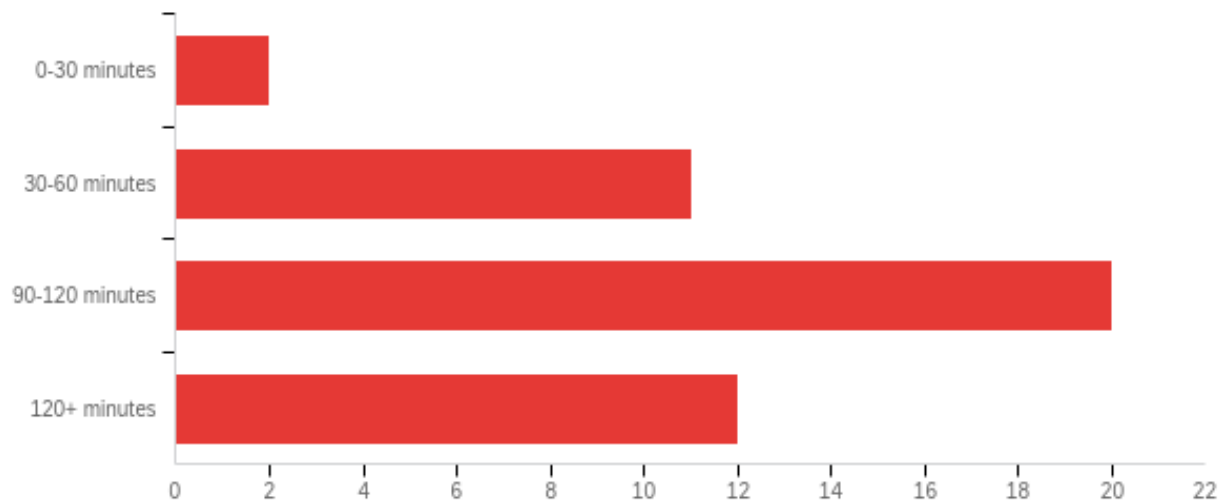
No

Zoom was great

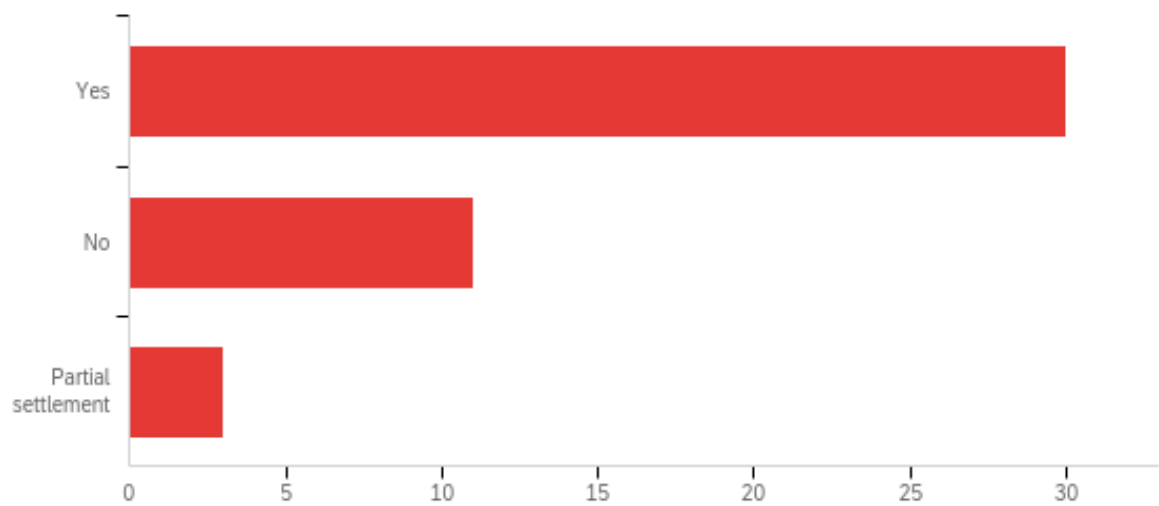
Zoom worked well, and in the circumstances probably better, technical issues aside

I have never been involved in mediation before, I don't know if there would have been a better outcome face to face. It was positive under the present circumstances.

Q6 - How long did the mediation last?



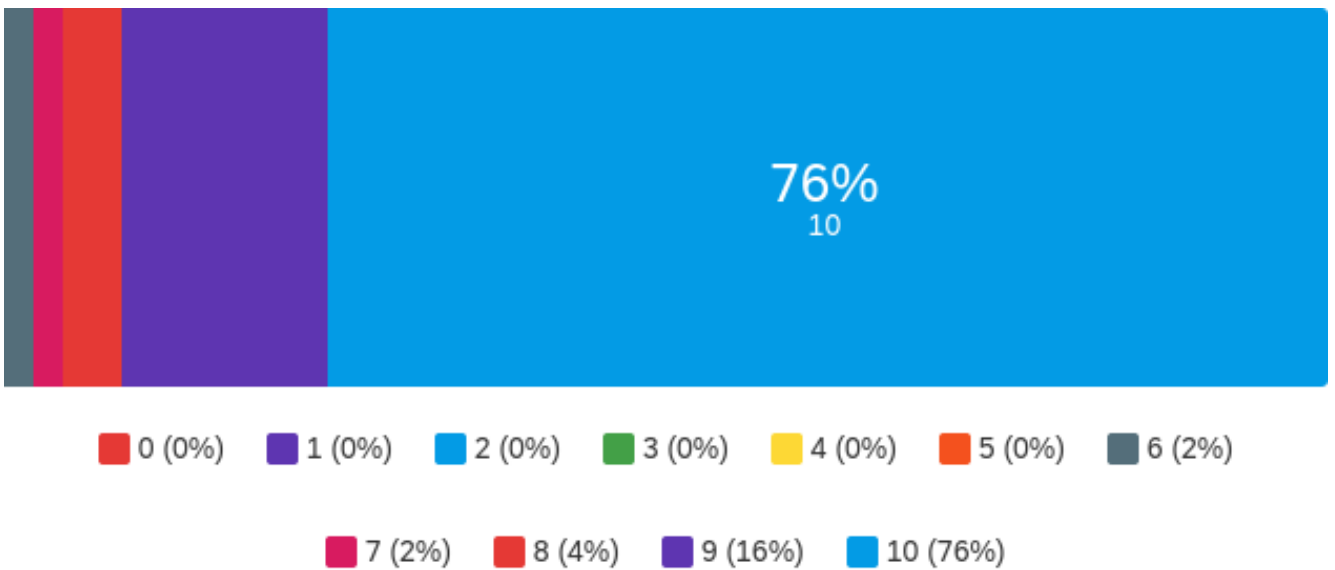
Q7 - Did the mediation result in a settlement?



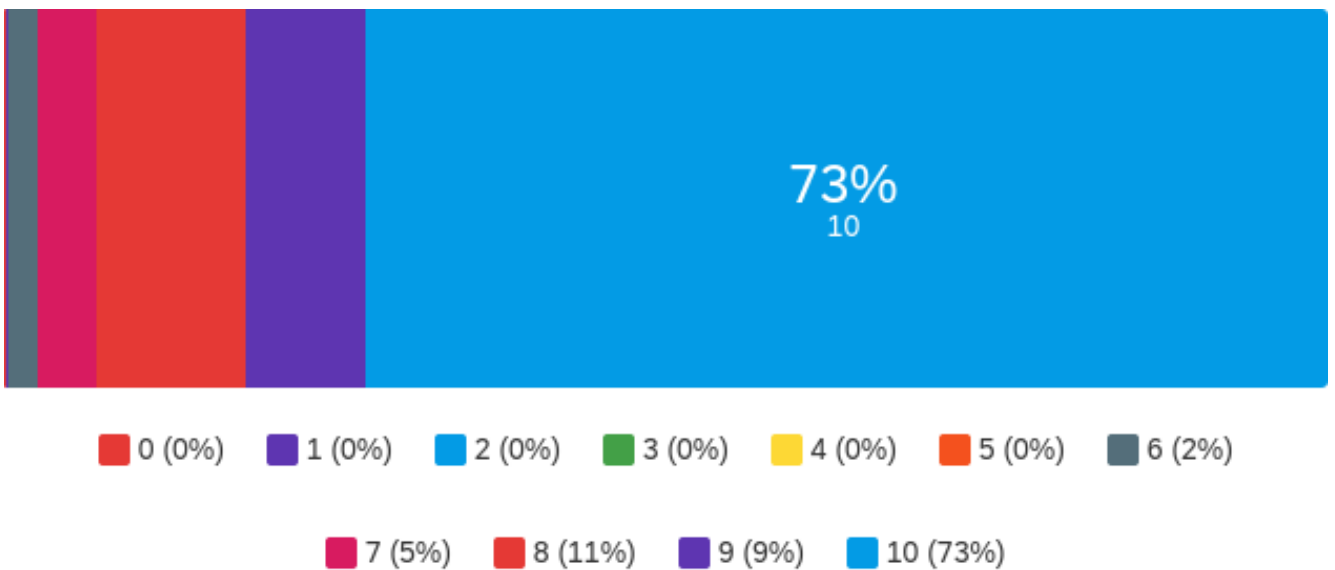
KEY:



Q7 - The mediators clearly explained what is involved in mediation.



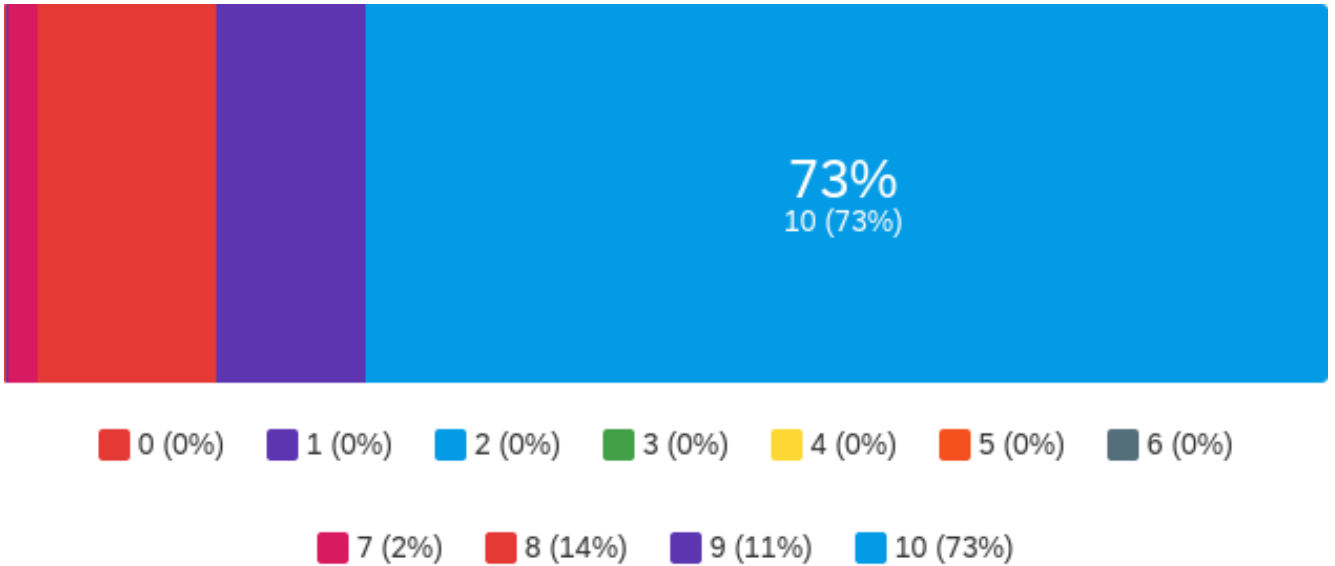
Q9 - The mediator(s) understood the issues I had to resolve



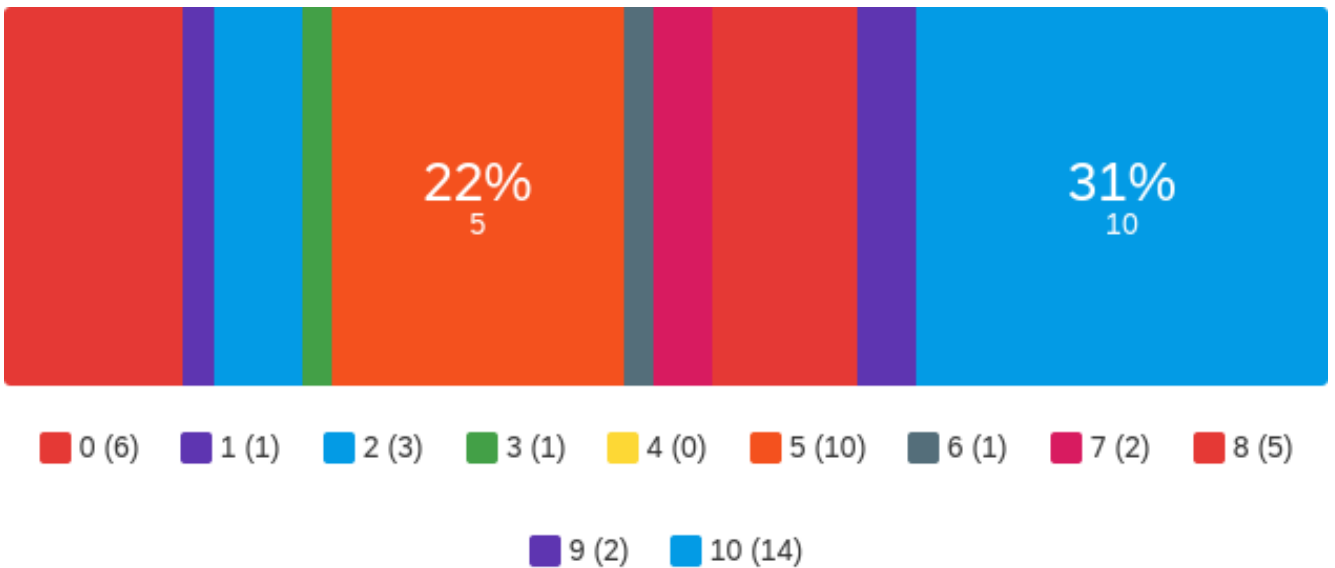
KEY:



Q9 - The mediator(s) were fair and impartial



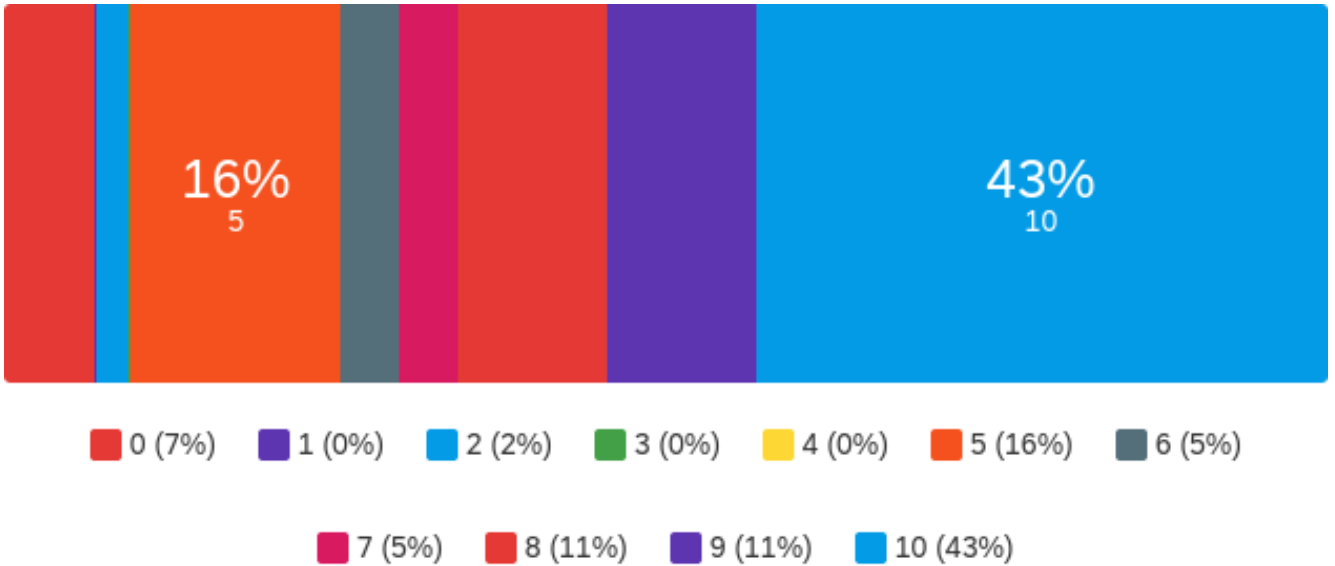
Q10 - Mediation has improved relations with the other party to the dispute.



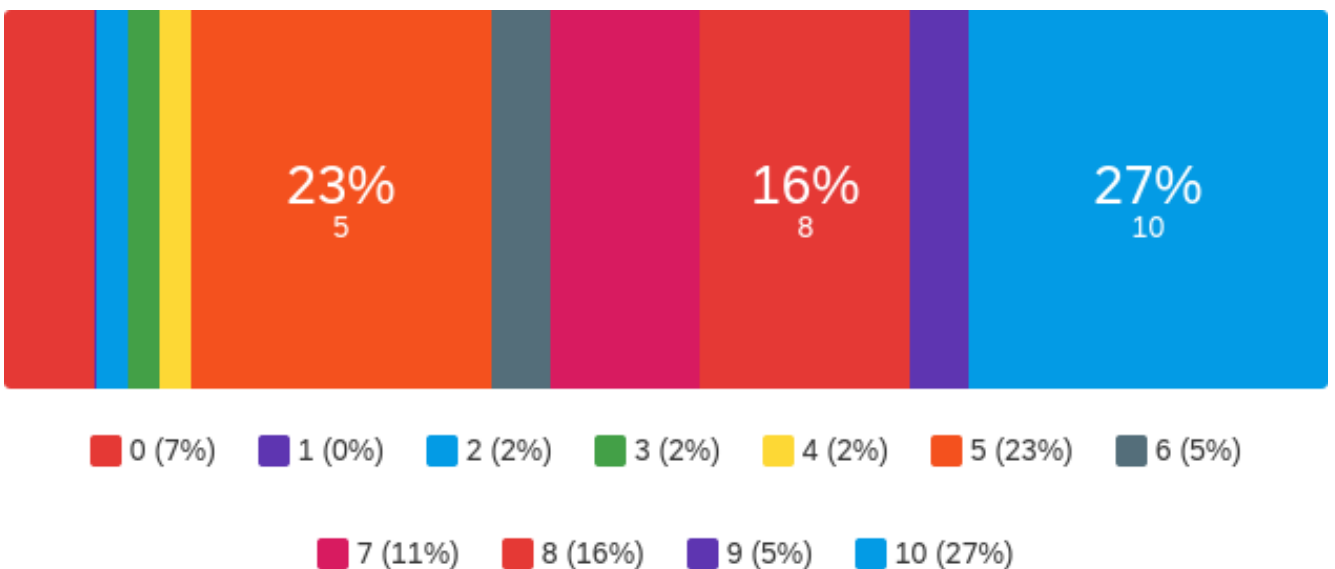
KEY:



Q11 - Mediation was an efficient way to resolve my dispute(s).



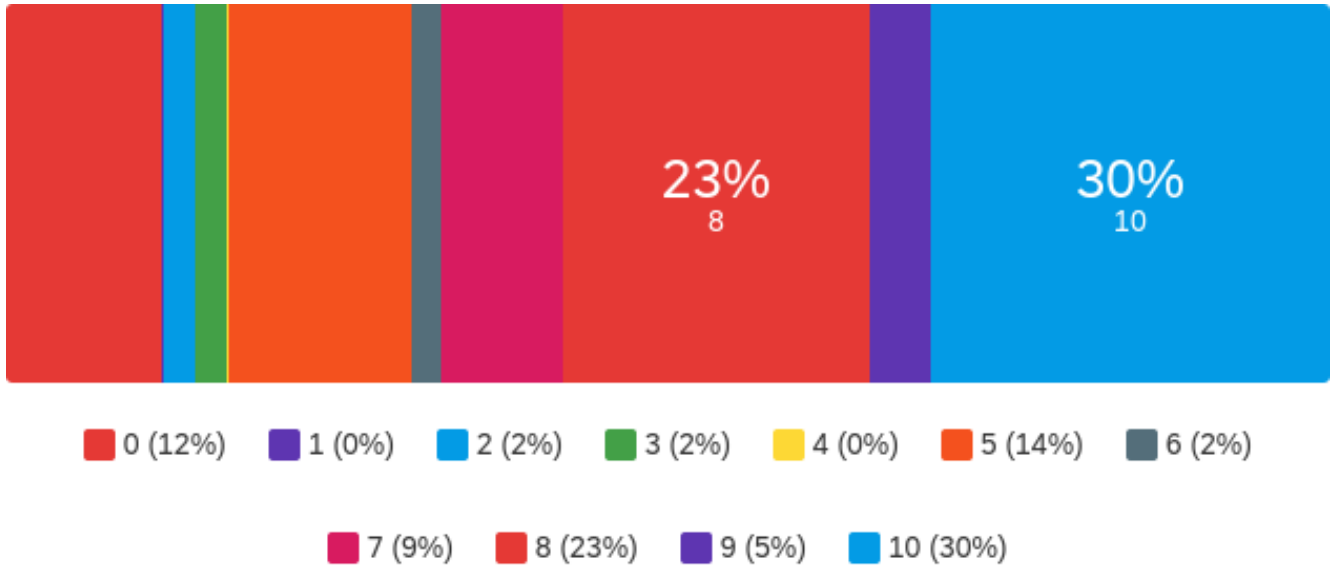
Q12 - The outcome reached in mediation was fair.



KEY:



Q12 - I/We were satisfied with the outcome reached in mediation.



Q15 - What were you hoping the mediation would achieve?

To produce an extra-judicial settlement.

A fair result / settlement

Settlement

Improve communication between the two parties which had clearly reached an impasse. Allow an opportunity to put forward explanations for why things had happened in an environment where they would be listened to.

An apology from the claimant, and her to realise what pain and upset she had caused me over the past year and half.

The opportunity to say things that I may not have been able to say in a Courtroom situation.

An agreement of some form

A fair settlement

Agreement between myself and the claimant

I was hoping mediation would resolve the issue today rather than having to go to court.

A settlement (albeit we reduced the amount significantly more than we would have liked)

An agreement

To get the respondent to communicate with us

Payment of invoice and costs

Resolution

To settle instead of going to court.

Fair contribution to common repair I undertook on properties during 2017 renovations

Resolution of the issue.

Reduced settlement figure.

Dismissal of case with no merit

Settlement of our invoice at an amount which we agreed upon

An agreement

I was hoping that we could come to a settlement. The case has been for a better word cisted to try and get things resolved.

Out of court settlement

end of case

Following the Sherriff recommendation, I had hoped that clarity would have been brought to the case, the claimant has been totally unreasonable in trying to discuss the issues and simply bombards with words, I had hoped that mediation could have made an opening to resolve this issue.

Settlement out of court

A settlement

Resolution

A settlement.

Resolve a disagreement.

I hoped the problem would be resolved.

That the case be settled without going to court.

I hoped I could have a win-win situation.

Settlement

Resolve the issue at hand.

The mediation was excellent. However, I settled the matter reluctantly because of the stress of wait to go to court. I felt I had a good defense to win the case. However, due to Covid-19, it would have taken months before we went to court. I settled to avoid the stress. If I was younger, I would have allowed the claimant to chance their luck in the court

Claimant having an understanding of why the fees were due

A forum where an agreement could be reached

We were unsure as the issue is complex with the claimant not really wanting to understand our position as a company. We did offer the beginning of a solution but that was rejected, so unfortunately no result.

Full agreement

I was hoping both parties would of met in the middle to achieve a better understanding & outcome.

Q16 - What did the mediation achieve?

A fair result

Settlement

The settlement agreement was a clear way forward which would not have been achieved out with a mediation process. It provided a calmer environment and the set the tone to allow a constructive discussion.

A fair settlement for both parties

An end result. Didn't need to go to court and have more months of psychological and physical pain.

The most sensible result.

Refined the issues in dispute

A fair settlement

Agreement between myself and the claimant

Mediation achieved a bit of give and take by both parties to come to an agreed conclusion.

A settlement

Nothing

Communication

Payment of invoice and costs

Resolution

Settlement.

Very limited contribution by the respondent

Desired result.

Had to concede to pursuer's pre-mediation as he made it clear he was looking to go to court to settle if this was not paid

A settlement.

a settlement agreeable to both parties

Settlement of our invoice at an amount which we agreed upon

Better understanding of the other party and their 'world-view'

Nothing really.

Unfortunately, it did not achieve anything, the claimant is returning to Sherriff court.

Other participant got angry and withdrew from the mediation

Resolution

A settlement.

Resolved the disagreement.

We reached an agreement acceptable to both parties.

The case was settled without going to court.

I think we came to a reasonable arrangement.

Settlement

Nothing

A settlement.

Partial Payment of legitimate fees

Nothing but this was due to the respondent attending with no desire to settle this dispute.

I'm sad to say that for us it highlighted the claimants continual not quite telling of the truth and his determination to achieve something that is just not quite possible for us.

Partial, ongoing, steps.

It highlights what the other party thinks about the situation & puts forward their thoughts & situation.

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

No, it was very helpful. Thanks again to the mediators involved.

The service needs no improving

Both mediators demonstrated kind and sympathy for the case, liked the fact that the mediators could read the nonverbal signs from both parties also. Problem with zoom is that sometimes the background of the people's rooms was a bit distracting. Liked that we could go in to private 'rooms' to have freedom of speech. Might have been good if the mediators had had a summary of the case.

The service is excellent. The parties could not agree but there is nothing that could have been improved in the service.

Thanks to XXX and XXX for their friendly and professional approach

XXX and XXX were very professional, explained the process very well and also understood the views of both parties and helped by asking some leading questions when communications may otherwise have stalled. They also helped to keep a very calm and at ease environment throughout the call. I can't thank both gentlemen enough in helping me to resolve an issue that has been going on for 4 years now.

Every situation will be different and more complex than my case. I couldn't add any comments to improve the service provided.

I felt it was a bit rushed and some pressure applied for me to settle without going to court.

No suggestions to improve.

No the process was very well run and XXXX was excellent in how he conducted matters

None, it was very well managed.

None, it was impressively effective

More formal written submissions to the mediators in advance

In cases like this when there is a dominant personality, I would have liked the mediation to limit the time given to them, after listening for 30 mins to their opening statement which did not clearly address the question that mediation asked, the mediators were very professional and polite, but could perhaps have interjected a bit more.

Would not change anything, Mediators were very professional

Nothing

I think this is an excellent service. It saves a huge amount of time and is much less stressful than going to court. It must save a lot of money too.

I really enjoyed the online experience. I had privacy to talk in another room as well as having the freedom to share my thinking in a safe environment.

We feel like, in some situations, mediation should only be an option if both parties agree to it and not a requirement.

The service itself was excellent and very insightful. The ladies were very easy to speak with and tried their best. It was very pleasant to have two impartial mediators and not the very biased one that the claimant had tried to use previously

Firmer direct probing questioning

I was happy with the service I received. I would use mediation again but hopefully I never have to as it was stressful. I would recommend the 2 mediators XXX & XXX. I couldn't find fault.