

MEDIATION CLINIC

ANNUAL REPORT
2017



UK Entrepreneurial University
of the Year 2013/14
UK University of the Year
2012/13

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1. INTRODUCTION FROM THE DIRECTOR

- 1.1 I am pleased to present the third annual report from University of Strathclyde Mediation Clinic, covering the period from December 2016 to October 2017. The Clinic was formed in 2011 and started providing small claims mediation in Glasgow Sheriff Court in 2014, celebrating our first 100 cases in May 2016. As you will read below, 2017 has been our busiest year to date and we are now providing mediation under the new Simple Procedure rules in Glasgow, Paisley, Falkirk, Kilmarnock, Airdrie and Dumbarton.
- 1.2 I hope you enjoy reading about our work. Please spread the word about the mediation services we offer – we aim to grow our workload in the years ahead to enable us to help as many people as we can to resolve their differences peacefully.

2. ABOUT THE MEDIATION CLINIC

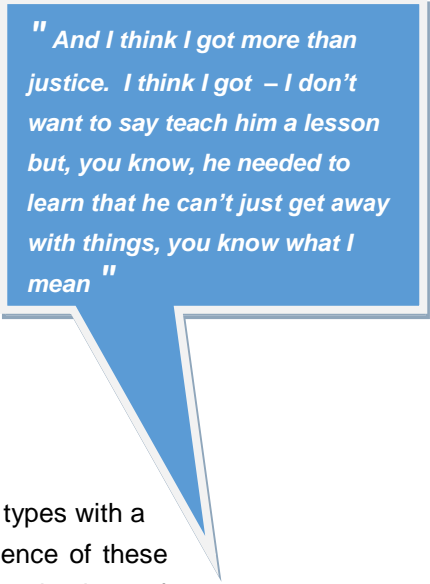
- 2.1 The Mediation Clinic is a **free, student-led mediation service** aiming to help people resolve disputes consensually without recourse to court or tribunal proceedings. It also offers students the opportunity to develop valuable mediation skills.
- 2.2 The Mediation Clinic is part of Strathclyde Law School. Students are drawn from the LLM/MSc in Mediation and Conflict Resolution. Lead mediators are practitioners who give generously of their time, many of them former students on the LLM/MSc course.
- 2.3 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: see <http://www.strath.ac.uk/whystrathclyde/values/>

3. DIRECTOR'S REPORT

- 3.1 The Clinic entered 2017 with high hopes for more cases thanks to the advent of Simple Procedure. While not quite the overwhelming rush we might have expected there has been a significant rise in the number of cases referred and mediated; in addition we now have a regular presence in three sheriff courts. The central message of the Simple Procedure rules, that sheriffs should encourage negotiation and 'ADR',¹ has increased the absolute number of cases referred to the Clinic, though there are considerable differences between courts. As with any period of change, the initial period has been challenging. However, the courts and perhaps even the legal profession are getting used to new routines and mediation is becoming 'business as usual' for claims of up to £5,000.
- 3.2 Glasgow Sheriff Court initially chose to refer cases to the Clinic at the 'First Written Orders' stage. This meant writing to both parties and asking them to contact us, placing the onus on people themselves. In the initial three months, neither person got in touch in around 50% of cases. This has improved recently, suggesting that people are becoming more used to the idea of mediation. This also meant the Clinic had to introduce a new 'telephone intake' stage. This pre-mediation step is hugely important in engaging with clients, many of whom approach us with a great deal of scepticism (about the other person if not mediation itself). It requires skill and patience. Some of our mediators are now trained in this practice and I'm particularly grateful to Alison Ebbitt, Ailie Barclay and Haley Weir for the work they have put in to date.
- 3.3 In June Glasgow Sheriff Court decided to reintroduce the practice of having mediators attend on the day, now at a series of 'Case Management Discussions'. Around then we were also invited to provide a presence in Falkirk and Paisley Sheriff Courts. This gives us a chance to meet people face to face and explain what's involved in mediation. As a result the number prepared to take part has gone up, and we have now mediated 8 cases in Paisley and 5 in Falkirk.
- 3.4 I do need to acknowledge that the overall settlement rate has gone down. I don't profess to understand all the reasons for this: some parties seem to have agreed to mediate without thinking they might need to make concessions; others showed considerable personal animosity, making settlement hard to achieve; still others involved representatives without authority to settle beyond a limited range. I also recognise there are cases that should NOT settle; some people just want a ruling from the sheriff, or are unable to sit in the same room as the other party. Having said that the settlement rate has recovered recently, reinforcing the feeling that the new rules are bedding in.

¹ Alternative Dispute Resolution, of which mediation is the most common form in Scotland

3.5 From November 2016 to October 2017 the Clinic accepted a total of 127 referrals from the court. One of the parties made contact in 77 of these and 47 proceeded to mediation. Of these, 26 reached a settlement. As far as we are aware the terms were fulfilled in all but two of these.



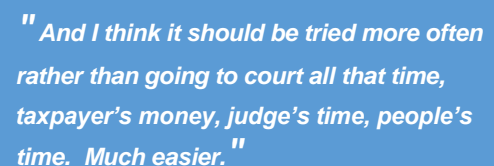
" And I think I got more than justice. I think I got – I don't want to say teach him a lesson but, you know, he needed to learn that he can't just get away with things, you know what I mean "

3.6 Simple Procedure has altered the balance of case types with a greater number of represented parties. The influence of these representatives varies, with some expressing enthusiasm for mediation and others advising their clients against it. The most common types of dispute were goods and services (12) and landlord/tenant (12). These were followed by factor disputes (11), building work (8), unpaid bills (6), motor vehicles (4) and personal property (3).

3.7 The highest settlement was achieved in a dispute concerning building work, with the claimant accepting £3740 out of a sum sued for of £5,000. A landlord/tenant dispute was settled with a payment of £2,700 (from a claim of £3,000) and an unpaid bill claim of £5,000 settled for £2,250

3.8 The Clinic continues to receive a small number of referrals from the Law Clinic (3 this year). One proceeded to mediation and settled.

3.9 Finally I would like to say a special thanks to Pauline McKay, our administrator. In her notional one day a week she manages to juggle a huge range of tasks, dealing with clients, mediators, numbers, paperwork, telephone calls and my own administrative challenges. The Clinic could not have functioned without her efficiency and cheerfulness.



" And I think it should be tried more often rather than going to court all that time, taxpayer's money, judge's time, people's time. Much easier. "

4. FUNDING

- 4.1 While the university has been very supportive, providing a room as well as allowing for a proportion of my own and Pauline's time, we've always recognised that the Clinic would need to look elsewhere for additional funding if it is to grow. This year, thanks to a supportive and helpful funding group (Marc O'Krent, Elaine Hegarty and Ailie Barclay), we were successful in a bid to the University's Alumni Fund. The resultant one-year grant of £9,000 will enable us to employ two student assistants for a day a week each for 9 months. Recruitment began last week and we are looking forward to having a Student Assistant to the Director and a Student Assistant (Information) in the coming months.
- 4.2 Another funding opportunity presented itself over the summer. This time another student, Catherine Brys, stepped up to the plate to help with a major funding bid to the SafeDeposits Scotland Trust. In September we were delighted to hear that the Clinic is to be awarded £20,000 to start a new Housing Mediation project. This will enable us to build on our existing experience working with landlords, tenants, property agents and factors to found a centre of excellence in housing dispute resolution. We are very much looking forward to working with SafeDeposits Scotland Trust in the coming year.



“Provided unemotional logic”

5.

5. THE FUTURE

- 5.1 I said last year the Clinic had become an important torch-bearer for mediation. I mentioned our reputation and the growing significance of the work in the minds of the judiciary. All of this seems to have increased in the past 9 months. Change comes slowly in Scotland, but when it does take root it tends to be lasting. I continue in the belief that the work we are doing in the Clinic is laying the foundation for a broader, more humane approach where ordinary people will feel they have a stake in the justice system. I would like to thank all the lead mediators, students, sheriffs and other supporters for the time and energy they have given to the Clinic.
- 5.2 Finally, the time seems to have come to adapt our constitution. The Clinic originally borrowed the Law Clinic's approach of having a student led Board. However, it has become clear that postgraduate students who are in Glasgow for a single year, and often have other jobs, are not in a position to join a board, learn the ropes and make a major contribution before they depart. I am therefore proposing changes to the constitution. These will enable us to recruit a more traditional board, comprising a mix of students, alumni and those committed to promoting the Clinic and its work. The revised constitution will be presented to the AGM on Oct 5th 2017 and should lay the foundation for the longer term.

APPENDIX 1

SUMMARY OF SHERIFF COURT CASES

Sheriff Court	Small Claims			Simple Procedure	Feb 14 – Oct 17
	Glasgow Feb 14 - Dec 14	Glasgow Jan 15 - Dec 15	Glasgow + Lanark Jan 16 - Nov 16	Glasgow, Paisley, Falkirk, Kilmarnock, Airdrie, Dumbarton Dec 16 – Oct 17	
No of Referrals	41	38	42	77 ²	198
No of Cases mediated	39	32	25	47	143
No of Cases Settled	31	21	19	26	97
Terms Fulfilled for settled cases	29	20	19	Not available	N/A

% of Settled Cases	79%	66%	76%	55%	68%
% of Terms Fulfilled of settled cases	94%	95%	100%	N/A	96%
Average settlement amount as % of sum sued for	65%	47%	54%	N/A	57%

² An additional 50 cases were referred in writing by Glasgow Sheriff Court in which neither party made contact with the Clinic.

Constitution, as amended on 5 October 2017

1. Organisation

1.1 The organisation will be called the University of Strathclyde Mediation Clinic (hereafter, the Mediation Clinic). The Mediation Clinic is an organisation which is part of the University of Strathclyde Law School. It is independent from University of Strathclyde Law Clinic.

2. Aims

2.1 The Mediation Clinic's main objective is to improve access to justice by providing a free mediation service for those living or working in the Glasgow and the surrounding area. The Mediation Clinic also aims to provide practical mediation experience for students at the University of Strathclyde Law School.

2.2 To promote these objectives, the Mediation Clinic undertakes to maintain strong links with other legal service providers and agencies. In particular the Mediation Clinic aims to develop its association with the University of Strathclyde Law Clinic, while still maintaining the independence essential to its proper functioning.

2.3 The Clinic will endeavour to afford its members the best training, supervision and contact opportunities to meet the needs of its clients and the community it serves.

3. Members

3.1 Membership of the Mediation Clinic will be open to any student or graduate of University of Strathclyde Law School, and to any person whom the Board deems appropriate. Prospective members will be required to complete a membership application form which will include assent to Mediation Clinic aims and objectives. A membership list will exist containing the names and contact details of all members.

3.2 The Board of the Mediation Clinic will have the right, upon any good or sufficient reason, for the good of the Mediation Clinic, to terminate the membership of a member. Before such termination, a member shall have the right to appeal the termination to the Advisory Board. In the meantime that person's membership will be suspended and the member may not participate in any of the Mediation Clinic's activities.

4. Equal Opportunities

4.1 The Mediation Clinic will not discriminate on the grounds of gender, race, colour, ethnic or national origin, sexuality, disability, religious or political belief, marriage or age.

5. Board and Officers

5.1 The Mediation Clinic will be run by a Strategic Board, who will in turn be advised by an Advisory Board. For the remainder of this document the Strategic Board shall be referred to as “The Board”.

5.2 The Board

5.2.1 Membership of the Board will be open to all members of the Mediation Clinic. The Board will have a minimum of 5 and a maximum of 11 members, including three office bearers and the Course Leader of the LLM/MSc in Mediation and Conflict Resolution. At least two Board members will be current or former students on the LLM/MSc/PGDip/PGCert in Mediation and Conflict Resolution.

5.2.1.1 The Board’s purpose is to support the Chair in setting the Clinic’s strategic direction and overseeing implementation.

5.2.1.2 The Board may appoint Board members to take responsibility for specific areas. Where the Board considers it requires additional members to provide expertise in specific areas it may co-opt up to two people for a maximum of one year.

5.2.1.3 Anyone co-opted to the Board under 5.2.1.2 must resign and present themselves for election at the next AGM.

5.2.2 Membership shall be decided at the AGM by the Clinic Membership..

5.2.2.1 The office bearers shall be a Chair, Secretary and a Treasurer who shall be elected by the Board at the AGM with each office bearer being elected or re-elected at the AGM.

5.2.2.2 At each AGM, all Board members who have been appointed since the date of the last AGM retire from office. Board Members may be re-elected if willing to continue acting. Where there is an over-subscription of Board applicants, prospective members shall be recommended by the Board and elected by the Clinic members.

5.2.4 The Board will meet on a regular basis. Meetings shall be called by the Chair of the Board who shall give no less than one week’s notice.

5.3 Advisory Board

5.3.1 Membership of the Advisory Board will be at the Board's discretion but will consist of the Course Leader of the LLM/MSc in Mediation and Conflict Resolution and others from the Law School and wider society with an interest in the work of the Mediation Clinic.

5.3.2 The Advisory Board will give advice to the Board regarding the functioning of the Mediation Clinic and will also be responsible for appeals regarding the termination of membership of the Mediation Clinic.

5.3.3 The Advisory Board shall be accountable to the members and the Board.

5.3.4 The Advisory Board will meet as appropriate.

6. AGM and other meetings

6.1 The Annual General Meeting of the Mediation Clinic will be held in the first academic semester. Notice of the Annual General Meeting will be given to members by email at least one week in advance.

6.2 Notice of other meetings shall be made one week in advance, with discretion given to the Board and Advisory Board as to the calling of such meetings. Where the members wish to call a meeting they should inform either the Board or Advisory Board and if they agree such a meeting should be held they shall issue notice.

6.3 The minutes of all meetings will contain a record of all proceedings, resolutions and decisions, and will be sent to all members of the relevant Boards.

7. Rules of Procedure

7.1 Decisions of all meetings will be by consensus where possible. If a consensus decision cannot be reached, then decisions will be by a simple majority vote of those present at the meeting with the Chair having an additional casting vote. Where the Chair of the Board is not present at a meeting, those present at the meeting will appoint a meeting chair.

7.2 At Board meetings a quorum of five members, including at least one office bearer of the Board, is required for decisions to be made.

8. Finances

8.1 The Mediation Clinic shall be ran on a not-for-profit basis. All monies raised by or on behalf of the Mediation Clinic will be applied to further the objectives of the Mediation Clinic and for no other purpose.

9. Amendments to the Constitution

9.1 Amendments to the constitution will be made by the Board, subject to approval by a two-thirds majority of the members present at the next Annual General Meeting.

9.2 Amendments to the constitution may be proposed by any member of the Mediation Clinic and should be submitted in writing to the Board, signed by at least three members of the Mediation Clinic.

9.3 If any proposed amendments cannot be discussed and voted on at the Annual General Meeting, the Board may organise an Extraordinary General Meeting to discuss the proposed amendment within one month of its receipt.

10. Clinic Dissolution

10.1 If the Board, in consultation with the Advisory Board, decides at any time that it is advisable or necessary to dissolve the Mediation Clinic, it will call an Extraordinary General Meeting, giving no less than 21 days notice to all members of the Mediation Clinic of both the time of the meeting and the proposed terms of the resolution.

10.2 If the decision is confirmed by a two-thirds majority of members present, the Advisory Committee will have powers to dispose of any assets held on behalf of the Clinic. Any assets remaining, on satisfaction of any outstanding debts and liabilities, will be transferred to other organisations of similar aims and objectives.

Schedule 3 : List of Members in 2017

Director

Charlie Irvine

Administrator

Pauline McKay

Lead Mediators

Barclay Ailie
Boyd Andrew
Burley Robin
Davies Gordon
Ebbitt Alison
Harrington Lucy
Hegarty Elaine
Hossack David
Linn Phipps
MacLennan Elaine
Morrison Maureen
O'Krent Marc
Poyntz Roy
Preston David
Schmulian Kim
Scuse Jeremy
Sharp Alastair
Spurway Alison
Thompson Carolyn
Wassermann Daphne
Weatherston Graham
Woolfson Giles

Student Mediators

Carlin Margaret
Cathcart Craig
Catherine Brys
Clark Sarah
Dick Fiona
Elliot Katie
Galli Maria
Gunn Maureen
Hutchison David
Kacchi-babureddy Nandakumar
Kirkwood Paul
Lehmann Josefine
Logan Honor
MacLeod Annetta
Marguerite Michelle
McIntyre Ashleigh
Nawrot Megan
Rangles Fausto
Smilie Margaret
Stringer John
Tay Christina
Thomas Althea
Weir Haley
Wilson John

Office Bearers 2016

Chair: John Stringer
Vice Chair: Lord Apetsi
Joint Secretary: Haley Weir/Fausto Rangles
Treasurer: Elaine Hegarty/Nanda Babureddy

