

University of Strathclyde
Mediation
clinic

MEDIATION CLINIC

ANNUAL REPORT
2018

THE LEADERSHIP & MANAGEMENT AWARDS 2017 | Winner
Workplace of the Year

THE AWARDS 2016 | WINNER
BUSINESS SCHOOL OF THE YEAR

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

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CHARLIE IRVINE, DIRECTOR

1. INTRODUCTION FROM THE DIRECTOR

- 1.1 I am pleased to present the fourth annual report from University of Strathclyde Mediation Clinic, covering the period from October 2017 to September 2018. The Clinic has come a long way since students' seeking real-world mediation practice prompted its formation in 2011. Following our formal launch by the Principal, Sir Jim McDonald, we started providing small claims mediation in Glasgow Sheriff Court in 2014. By this year, thanks to the 2016 Simple Procedure rules, the Clinic has become a major provider of mediation in West Central Scotland. Our volunteer mediators regularly attend Glasgow, Paisley and Falkirk Sheriff Courts and we receive referrals from courts in Kilmarnock, Airdrie and Dumbarton. The statistics below show that 2018 has been our busiest year to date.
- 1.2 Our work is beginning to make a difference: the Clinic is widely quoted in a new report by the Scottish Parliament's Justice Committee, [I Won't See You in Court: Alternative Dispute Resolution in Scotland](#).
- 1.3 I hope you enjoy reading about what we do. Please spread the word about the Clinic, particularly to experienced mediators willing to share their expertise for the benefit both of unrepresented litigants and the next generation of mediators.

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 a formal hearing. 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 to mentor new mediators. Many are 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. CHAIR'S REPORT

3.1 It seems no time at all since our last AGM eleven months ago, and we have never had a busier year in terms of volume of cases mediated by the Clinic. This has led to an abundance of opportunities for student mediators to practice their skills in real life cases, under the guidance of our Lead Mediators who so generously give of their precious time freely to support our students. A couple of the highlights of the year for me have been the following:

3.2 "PERSPECTIVES ON MEDIATION"

On 7 February 2018, Scottish Mediation and the Clinic hosted a seminar on the operation of Simple Procedure court mediations, which was attended by key stakeholders including Sheriffs, court staff, government representatives, the Scottish Legal Aid Board and members of the mediation community. The Clinic therefore had the opportunity of giving to those stakeholders a flavour of the service we offer, and we shared with the audience reflections of our own experience which we hoped would assist those present to understand the challenges, and the value, of what we do. Charlie offered some thoughts on what we might learn from other jurisdictions, and Sheriff Livingstone from Falkirk (who, along with Sheriffs from Glasgow and Paisley Sheriff Courts, has been hugely supportive of the work we do) gave us a glowing report, underlining the assistance we give to the justice system, with a much appreciated observation that we should be properly funded! Whether or not that observation fell on deaf ears remains to be seen, but certainly the feedback was positive, and there seemed to be general acceptance that the clinic provides a high quality service, and has helped to embed mediation in the court system.

3.3 CLINIC STRATEGY

We were very fortunate in having the professional expertise of former student Catherine Brys who drafted for us (free of charge!) a detailed "Governance and Strategy" document, containing ideas for how the clinic may expand and develop in the future. This kick-started the Board into addressing some fairly fundamental questions surrounding the identity and purpose of the clinic moving forward. We therefore held a "Board Workshop" on 17 May 2018, which was kindly facilitated by Robin Burley. This allowed us to go back to basics, redefining why we are here, considering where we sit in the wider mediation community and mapping out the future direction of the clinic. We mined a rich seam of thoughts and ideas on the day, looking at how we could grow and develop in areas where there is an unmet need for mediation. We considered involving in the clinic undergraduate students who had shown an interest in mediation through the mediation competitions, putting together an Advisory Board perhaps drawing on outside talent and expertise, initiating a Student Mentoring programme and organising a celebration next year of the Clinic's half-decade to thank everyone involved and to recognise our achievements. What was clear is that this work is ongoing, and it is hoped to formulate a "mission statement" which will capture the ethos of the clinic, will inform future decisions regarding the work of the clinic and help to identify the areas into which it may realistically expand.

3.4 MOVING FORWARD

The Board has recognised that there are considerable challenges for the Clinic in moving into the future. There is no shortage of ideas for expansion, but this is largely determined by the clinic having the capacity to take on new projects. The recurring theme has been that the recruitment of Lead Mediators has to be a focus for us if the clinic is to survive: those of us who have graduated through the Masters have benefitted hugely from working alongside the experienced and highly skilled Mediators who have so generously given of their time and expertise, and to whom we owe a massive debt of gratitude. Hopefully, despite our busy schedules, all of us will be able to find time to volunteer and to give something back: it's been clear on the Board that students are enormously appreciative of this, and I think we would all agree that our practice develops too from what we learn from students, and the injection of energy and enthusiasm which they provide. Robin Burley has joined the Board as a co-opted member, and his long involvement with, and understanding of, the Clinic, and the experience he brings from other sectors will be a great asset to the Clinic Board.

3.5 FINAL REFLECTIONS

Acting as Chair of the Clinic Board, what has shone through for me is the commitment of the Board and the Clinic members in general, the amazing range and extent of knowledge and expertise amongst the members, and the willingness of everyone to do what needs to be done, despite receiving no monetary payment for their efforts.

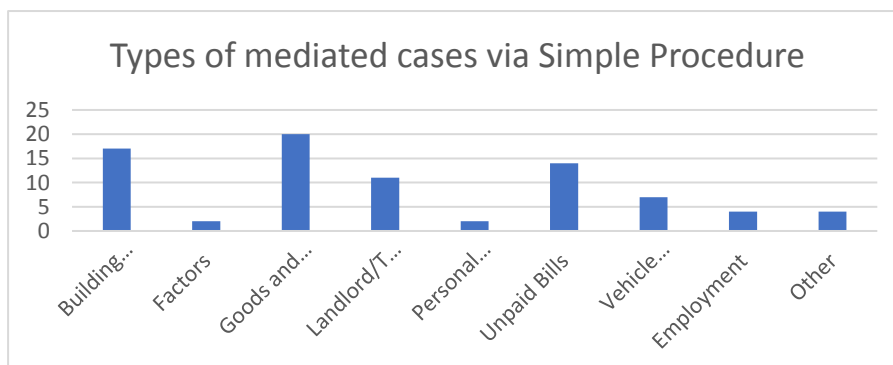
It is really remarkable to look back on my own introduction to the clinic in 2014, when mediations were as scarce as hen's teeth and the Sheriffs barely knew who we were, and to see us now having on occasions to turn mediations away owing to volume, and being very much an accepted part of the justice system at the courts in which we operate. Through this raising of awareness of mediation, and by providing the high quality of service which we have, I believe that we have gained credibility within the justice system. In my view, we have also given mediation a profile which, arguably, it would not otherwise have had, and this awareness-raising can only benefit those of us who have begun to carve out our own careers in mediation in the private sector.

It has been, as I said at the start, a very quick 11 months, and there is so much still to be achieved. Hopefully next year's Board will bring new energy, fresh ideas and a new perspective. Heartfelt thanks for the support of Charlie, Pauline, Catherine Brys, Robin Burley and all Board members, and I look forward to seeing exciting new developments over the coming year.

Ailie Barclay, September 2018

4. DIRECTOR'S REPORT

- 4.1 First the bare facts: from October 2017 to September 2018 the Clinic accepted a total of 208 referrals from the courts. 99 of these became cases (where both parties make contact and agree to consider mediation) and 81 proceeded to a mediation meeting. Of these, 51 reached a settlement and 5 are still ongoing, a settlement rate of at least 63%.
- 4.2 This year we built on our experience of Simple Procedure cases to develop a more flexible approach. We have learned that each court, indeed each mediation, is different and have adapted our practice so as to maximise the possibility of resolution. In some courts our mediators attend Case Management Discussions; sheriffs are becoming increasingly willing to invite parties to consider mediation. The statistics tell a good news story here: of the 35 cases mediated at court 28 (80%) settled on the day. On the other hand, referring people to mediation without that on-the-spot encounter presents a challenge. Of the 171 cases referred by the courts for mediation at a later date, only 46 (27%) mediated of which 23 (50%) settled.
- 4.3 Last year we speculated about the reasons for cases not settling, including: personal animosity; highly entrenched disputes; representatives lacking authority or motivation to settle; and matters where a ruling is needed. This year's larger sample adds more contextual variables: for example the sheriff's input; the speed with which mediation can get underway; and the simple fact of having a face-to-face encounter with the mediators. It looks increasingly likely that context, as much as personal inclination, governs the frame of mind in which people approach mediation.
- 4.4 The range of case types remains diverse. The most common types of dispute were goods and services (20), building work (17) and unpaid bills (14). Given the advent of the First Tier Tribunal (Housing and Property Chamber) it is unsurprising that there are fewer landlord/tenant (11) and factor cases (2), while motor vehicles features in 7 disputes.



4.5 Funded Projects

In 2017 the Clinic successfully applied to the University's Alumni Fund, receiving £9,600. This enabled us to employ two student assistants, Haley Weir and Stephanie Muir, each for one day per week. Haley and Stephanie brought energy and fresh eyes to our work, and have provided excellent support to Pauline, our administrator. Their 9 month posts came to an end in August and we would like to thank them for all their work on the Clinic's behalf and wish them well in the future. We would also like to thank the Alumni Fund for its kind support. The Fund has now allocated further funding for 2018, albeit of a reduced amount; however, thanks to an offer of match funding from HASS (the Faculty of Humanities, Arts and Social Science), we are able to employ a one-day-per-week student assistant for a year.

In 2017 the Clinic was also successful in a bid to SafeDeposits Scotland Trust. Their generous grant of £20,600 has enabled us to start an innovative Housing Mediation Project and in April this year we appointed Carolyn Hirst as Project Development Worker. Carolyn's report is below.

We hope to make further funding applications in 2018/19. As Allie points out in her Chair's Report, the Clinic relies on a great deal of goodwill from mediators and students. It is our hope that in time the Scottish justice system will come to recognise our contribution and step forward with additional funding. This would contribute to administrative and organisational costs currently picked up by the university and, for the first time, enable us to remunerate Lead Mediators for the time and skill they bring to the work.

4.6 I would also like to thank the Lead Mediators and students for their enthusiasm and drive in keeping on turning up at court when no cases are forthcoming. It takes courage and persistence to deal with these cases. Although the amounts can seem modest the disputes are no less fierce. Our mediators display skill, humanity and optimism and some parties surprise themselves by settling their disputes when that seemed impossible.

I end with special thanks to Pauline McKay, our Administrator. In one day per week she seems to achieve a vast amount of work, as attested by the statistics. Organising 81 mediations from 208 referrals requires commitment, accuracy and great organisational skill. The Clinic simply could not function without Pauline's efficiency and cheerfulness.

5. HOUSING PROJECT REPORT

In May this year we announced the appointment of Carolyn Hirst as Project Development Worker for our new Housing Mediation Project. The project has been funded by a grant from the SafeDeposits Scotland Trust and aims to provide pro bono mediation for the private rented sector, particularly in cases coming from the Sheriff Court and which may go to, or have come from the First Tier Tribunal (Housing and Property Chamber). We will also mediate cases where landlords and tenants are using a tenancy deposit, and for other property disputes such as factoring involving tenanted properties and disputes between tenants and letting agents.

Carolyn has been employed on a year's contract to lead the project. Working two days a week, she has been concentrating on building relationships with the Housing and Property Chamber, observing their cases, producing mediation related documentation and establishing a pool of mediators. Contact has been made with major landlords in the city and with both lettings agents and factors. This has resulted in six potential mediations to date as well as invitations to speak and contribute to a number of housing related events. There is more information about the Housing Mediation Project on our web-page and Carolyn can be contacted through the Mediation Clinic.



6. THE FUTURE

- 6.1 As I mentioned in my introduction, the Justice Committee's new report, [I Won't See You in Court: Alternative Dispute Resolution in Scotland](#), gives us cause for optimism. It recognises that mediation is not yet as widely used as it could be, and mentions the Clinic's efforts in enabling at least some courts to fulfil the promise of the Simple Procedure rules.

My own view is that its recommendations point towards a Mediation Act, similar to the recent Irish legislation, to rationalise the legal framework surrounding mediation and clarify the obligations of courts and solicitors to ensure that it has been properly considered. This will surely transform Scotland's dispute resolution landscape, giving the public greater choice and improving access to justice for those unable to afford legal representation.

In the meantime the Clinic will continue to pursue its original vision of students applying their learning in real-world disputes, thereby improving their own practice and benefiting their local community and wider society.

APPENDIX 1 SUMMARY OF SIMPLE PROCEDURE CASES: OCTOBER 17 – SEPTEMBER 18 (NOV 16-SEPT 17)

SIMPLE PROCEDURE TO OCT 2017 - SEPT 2018	Glasgow	Glasgow - Housing	Paisley	Falkirk	Kilmarnock	Dumbarton	Stirling	Oban	Perth	Total
No of Referrals	146 (89)	6	23 (11)	14 (4)	12 (9)	3 (1)	2	1	1	208 (114)
No of Referrals that turned into cases	51 (41)	1	19 (9)	14 (4)	9 (7)	2 (1)	2	0	1	99 (62)
No of Cases that Mediated	42 (35)	0	17 (8)	12 (4)	6 (6)	2 (1)	2	0	0	81 (54)
No of Cases that Settled	25 (21)	0	10 (4)	11 (3)	3 (3)	1 (1)	1	0	0	51 (32)
No of Cases that did not settle	11 (14)	0	7 (4)	1 (1)	3 (3)	1 (0)	1	0	0	24 (22)
No of Cases pending - terms still to be agreed	5	0	0	0	0	0	0	0	0	5
Unsuitable for Mediation	2	0	0	0	0	0	0	0	0	2

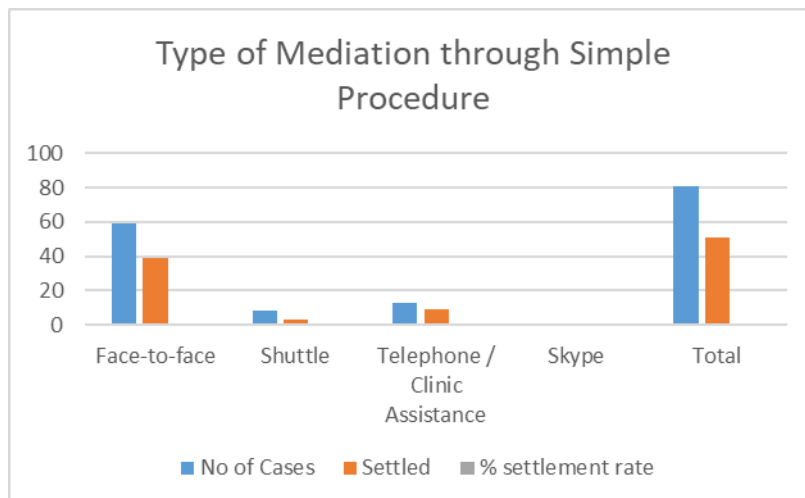
% of Cases that Mediated against those that turned into cases	82% (85%)	0%	89% (89%)	86% (100%)	67% (86%)	100% (100%)	100%	0%	0%	82% (87%)
% of Settled Cases against those that Mediated	60% (60%)	0%	59% (50%)	92% (75%)	50% (50%)	50% (100%)	50%	0%	0%	63% (59%)

No of cases - no response from either party	38	0	0	0	0	0	0	0	0	38
No of Cases that did not mediate - but contact from one party	40	0	1	1	2	1	0	0	0	45
No of referrals in progress eg intake, party action required	10	5	2	1	1	0	0	0	0	19

Intake Procedure: Settlement Rate for all Courts	Cases	Mediated	% of cases referred that mediated	Number Settled	Number settled mediated cases as %
Cases taken on the day at Courts	37	35	95%	28	80%
Cases referred from courts - for mediation at a later date	171	46	27%	23	50%
TOTAL	208	81		51	63%

Intake Procedure: Settlement Rate for each court	Cases	Mediated	% of cases referred that mediated	Number Settled	Number settled mediated cases as %
Cases taken on the day at Courts at Glasgow	12	8	67%	7	88%
Cases taken on the day at Courts at Falkirk	12	12	100%	11	92%
Cases taken on the day at Courts at Paisley	13	11	85%	8	73%

Overall: Type of Mediation Simple Procedure	No of Cases	Settled	% settlement rate
Face-to-face	59	39	66%
Shuttle	8	3	38%
Telephone / Clinic Assistance	13	9	69%
Skype	1	0	0%
Total	81	51	63%



Type of Case that mediated (Simple Procedure)	Nos
Building Work	17
Factors	2
Goods and Services	20
Landlord/Tenants	11
Personal Property	2
Unpaid Bills	14
Vehicle Related	7
Employment	4
Other	4
Total	81

Other Cases Referred to Mediation Clinic (not via Simple Procedure)	Self	Law Clinic	TOTAL
No of cases settled	1	1	2
Unsuitable for Mediation	1	0	1
Not mediated - ie no response from opposite party	8	1	9
No follow up from enquirer	4	0	4
Pending (intake calls)	2	1	3
TOTAL			19

Appendix 2 Financial Summary

Mediation Clinic Budget Running Costs Summary August 2017 - July 2018

Income

BF BAL from 2016.17	£	9,448.24	
Transfer of donations	£	3,000.00	
Total Income			£ 12,448.24

Expenditure

Apprenticeship Levy August 2017 - July 2018	£	24.48	
Monthly Pay J/E f Nov 2017 - July 2018	£	6,149.14	
Expenses	£	87.85	
Insurance	£	320.00	
Catering	£	129.95	
Total Expenditure			£ 6,711.42

Balance at 31 July 2018

£ 5,736.82

Mediation Clinic Budget Running Costs Summary August 2018 - September 2018

Income

Budget Allocation	£	11,126.92	
BF BAL from 2017.18	£	5,736.82	
Mediation Clinic Budget Transfer	£	3,600.00	
Transfer of incorrectly allocated budget to - GEN1529-129	-£	11,126.92	
Total Income			£ 9,336.82

Expenditure

Apprenticeship Levy August 2018	£	0.66	
Monthly Pay J/E for 24-AUG-18	£	168.72	
Expenses	£	141.40	
Expenses	£	92.90	
Total Expenditure			£ 403.68

Balance at 28 September 2018

£ 8,933.14

Housing Project Budget Costs Summary to September 2018
(Funded by Safe Deposits Scotland)

Income

Budget Allocation	£ 20,200.00	
Total Income		£ 20,200.00

Expenditure

Apprenticeship Levy	£ 26.11	
Equipment Purchase	£ 552.66	
Salaries - Summary	£ 6,884.14	
Total Expenditure		£ 7,462.91

Balance at 28 September 2018 **£ 12,737.09**

Appendix 3: List of Members in 2018

Director	Charlie Irvine
Project Development Worker (Housing)	Carolyn Hirst
Administrator	Pauline McKay
Student Assistant	Stephanie Muir
Student Assistant	Haley Weir
Board Members	Ailie Barclay (Chair) Josefine Lehmann (Vice Chair) Ben Cramer (Treasurer) Charlie Irvine Patrick Scott Carol Thompson Jacqueline Williams
Lead Mediators	Student Mediators
Barclay Ailie	Brys Catherine
Boyd Andrew	Clark Sarah
Burley Robin	Elliot Katie
Cathcart Craig	Galli Maria
Cramer Ben	Graham Jennifer
Davies Gordon	Grieve Barbara
Ebbitt Alison	Gunn Maureen
Harington Lucy	Hanif-Kidd Sobia
Hegarty Elaine	Harknett Jo
Hossack David	Hodgson Michael
Kirkwood Paul	Hutchison David
Linn Phipps	Kousourou Craig
MacLennan Elaine	Lehmann Josefine
Morrison Maureen	McKinlay Gordon
O'Krent Marc	McLeod Pauline
Poyntz Roy	Nawrot Megan
Preston David	Sing Theresa
Scott Patrick	Spencer Richard
Scuse Jeremy	Teggin Victoria
Sharp Alastair	Thomas Althea
Smilie Magaret	Weir Haley
Spurway Alison	Williams Jacqueline
Thompson Carolyn	
Weatherston Graham	
Wolfson Giles	

