

Just what is the mediation process?

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THE dismissal of mediation by the Scottish Rugby Union yesterday closed off an avenue that brings swift resolution to 80 per cent of cases.

When it was suggested last week as a route to resolving the current battle between Edinburgh Rugby and the SRU, it was dismissed by the union as a pointless exercise. A sudden turnaround had the SRU issuing a press release which said the governing body would consider mediation. Far from an unequivocal acceptance, it at least suggested that someone on the SRU board understood the worth of mediation, or at least its PR value.

Before the SRU announced its position yesterday, The Scotsman sought clarification on whether the rugby war would benefit from mediation, and spoke to John Sturrock QC, chief executive of the Core Solutions Group, which is based in Edinburgh and runs a panel of ten mediators operating throughout the UK and Europe. He is experienced in helping to resolve disputes in commerce and sport, notably in UK athletics where he has worked closely with Olympic athletes, coaches and performance directors.

Sturrock insisted that it was a powerful process that could offer a real opportunity for parties in a dispute to move on. He said: "Around 80 per cent of cases using mediation are resolved within a day; more complex cases maybe two days."

The QC made it clear he would not comment on the specifics of this case, but was happy to set the record straight over what mediation actually means. He explained that it is a confidential process and not legally binding until the parties reach a formal agreement.

"In Scotland, we have been slow to pick it up," he commented. "The modern concept of commercial mediation has been growing because it is successful at solving disputes before they reach court.

"Mediation is a rigorous and challenging process. It involves a third party, whose role is to facilitate discussion to enable the key players to reach an agreement where there is a logjam. Rather than defaulting immediately to arbitration or court, a lot of firms and individuals now use mediation as an enhanced form of negotiation.

"Mediation enables a skilled facilitator to bring a variety of issues to the table, to provide a framework which identifies the real concerns of all parties and allows considered discussion and negotiation. If there is significant antagonism which affects the ability of key players to communicate constructively and move forward, the mediator's task is to create an environment where any emotion, anger and frustration is managed."

Bells are ringing. 'Significant antagonism, poor communication, emotion, anger and frustration'? Bob Carruthers, the Edinburgh owner, and Gordon McKie, the SRU chief executive, should take note.

Sturrock added: "Mediation needs all parties to willingly come to the process. Mediation is about moving forward, not looking back and assigning blame. It is unusual to find either party unable to move, but, ultimately, the solution lies in the hands of the parties in dispute; they have to take responsibility and make choices."