

Core Mediation News

Spring 2002

Stop Press: Web Site is Launched!

Core's new web site is now accessible through www.core-mediation.com or www.core-consulting.com

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Welcome

WELCOME to this edition of Core Mediation News. The theme of this edition is the increased interest in, and take up, of mediation in Scotland. We report on a number of developments in mediation and on training and other initiatives in which Core is involved.

Abraham Lincoln once said, "The only safe way to destroy your enemy is to make him your friend".

"I never sought to undermine Mr de Klerk, for the practical reason that the weaker he was, the weaker the negotiations process. To make peace with an enemy one must work with that enemy, and the enemy must become one's partner." Nelson Mandela

Working with others, whose values and aspirations we may not share, is hard. But it is often the only way to resolve conflict if we want to achieve an outcome which preserves or restores a relationship, or at least satisfies the real interests of all parties. It may often be the only way to secure an outcome which provides long term benefits.

This is not easy to do. In an inspiring book entitled "The Third Side: Why We Fight and How We Can

Stop", William Ury comments, "Peace is a process that begins with each of us and radiates out from there".

Changing what we do and how we do it is a theme of much of Core's work in training courses and in mediation. Often it takes a third party to help us to change, as individuals or in disputes. That is the service which Core offers.

Mediation is Taking Off

"... the parties should have been able to come to a sensible conclusion as to how to dispose of the issues which divided them. If they could not do that without help, an independent mediator should have been recruited to assist. Today, sufficient should be known about alternative dispute resolution to make the failure to adopt it, in particular when public money is involved, indefensible".

Lord Chief Justice Woolf in Cowl v Plymouth City Council (The Times, 8 January 2002)

The culture in England is shifting dramatically. In Scotland, mediation is being used more and more by parties and their advisers.

In recent months, Core Mediation and its panel of mediators have been involved in mediations in disputes raising the following issues:

- Web site design and supply
- Employment in the public sector
- Provision of educational services
- Building contracts and architectural services
- Financing of construction projects
- Alleged medical negligence (the first mediation in that field in Scotland)

These mediations have taken place in towns and cities across Scotland, including Glasgow, Edinburgh, Inverness and Ayr. Most mediations take about one day. Currently, Core Mediation is handling inquiries in nearly 30 disputes.

"The mediation brought to a close an anxious and long running dispute, providing my clients with a definite outcome, potentially large savings in litigation costs, and the opportunity to get on with providing services for their customers without this matter hanging over them. It was hard work at the time but all completed in private in a little over one day." (Douglas Russell, Simpson and Marwick)

"Mediation was the key to unlock this clinical negligence dispute. In one day, as a result of skilled mediation, this dispute was successfully resolved bringing to an end the uncertainty and anxiety for all parties of a prolonged, costly litigation"

(Hugh Donald, Shepherd and Wedderburn)

Mediation - What you get for your money

People often look at mediation and assume that the fee paid by the parties is simply passed on to the mediator. However, for the daily fee, parties get much more than the services of the mediator. Core Mediation will carry out the following:

- Advise about the suitability of the dispute for mediation
- Approach another party on your behalf and suggest mediation
- Provide information to parties about the process before the mediation takes place
- Arrange the venue and fix a date

- Arrange a pre mediation meeting if necessary to discuss the process and any concerns
- Prepare and distribute the Agreement to Mediate
- Assist in the pre-mediation preparation, including identification of necessary documents
- Provide follow up after the mediation if required

There is no charge for initial advice and guidance on the suitability of a dispute for mediation or for helping parties to decide whether or not to use mediation.

"I wish to record my appreciation of the time and effort which you invested in the mediation and I would certainly not hesitate to recommend to clients to use Core Mediation Limited in any future disputes"

(Robert MacDonald, Munro & Noble, Solicitors, Inverness)

"Thank you...for all your hard work yesterday. ...I found the mediation process incredibly helpful".

(Solicitor for a party at a recent mediation conducted by Core Mediation)

Mediation Training

On 13 and 14 June, Core Consulting is rolling out its next mediation training initiative. This is a 2-day course for those who wish to learn skills and techniques to enable them to act as advisers to, and representatives of, parties who are involved in mediation. The course will include the following components:

- The stages of a mediation and how it works
- Preparation for a mediation and deciding when to use it
- Working with the mediator, the client and the other legal adviser
- Drafting agreements before and after a mediation
- Negotiation strategies and techniques
- Role play in workshops

A flyer is attached containing more details. To take part, please contact maxine.gomersall@core-consulting.com This course is also available in house. Core has recently conducted mediation training and awareness raising workshops for several legal firms, major insurance bodies, Standard Life, judges and universities.

Mediation Initiatives

A policy report issued by the Scottish Consumer Council in December recommends increased availability of mediation in non-family civil disputes. The report notes that the resolution of disputes by mediation at an early stage would save considerable time, anxiety and money for the parties, as well as for the courts. The report emphasises the flexibility of mediation, allowing parties to agree an outcome acceptable to both and helping to preserve relationships.

www.scotconsumer.org.uk

Major Report on Mediation published by the Royal Society of Edinburgh

After eight months of meetings, research and taking evidence, a working party of the Royal Society of Edinburgh has reported on mediation in medical negligence disputes.

In his forward, the chairman, Lord Ross, former Lord Justice Clerk, points out that "all litigation is stressful, and this is especially true of medical negligence cases. It is also widely recognised that litigation should be the last resort, but in Scotland it is still the route used more often than not." He notes that the working group concludes that, while not a panacea, resorting to mediation instead of litigation "should produce a number of benefits" and that these may include obtaining remedies which would not otherwise be available in litigation.

The report makes clear that, for mediation to be used more widely, there must be a change in attitudes, culture and education. The report directs its recommendations towards a number of organisations and stakeholders and points out that it is imperative that there is a political will for change. The report makes a number of specific recommendations. These include:

- A fully researched mediation project should be undertaken by the Central Legal Office and the Medical Defence Unions.
- The courts in Scotland should introduce appropriate rules of court to encourage parties to consider the option of mediation.
- There should be specific promotion of mediation training and awareness.
- The use of mediation might become a condition of the granting of legal aid in medical negligence cases.

High standards should be required for mediators and for those who provide mediation services.

<http://www.ma.hw.ac.uk/RSE/mediation/report.pdf>

Press Coverage for Core

Core has been featured in a number of articles in the press recently.

Scotland on Sunday carried an article by Antonia Swinson in its Business section in February asking why the idea of appointing a neutral third party who, within a day, can mediate and thrash out a negotiated settlement with an 80% success rate, has taken so long to catch on. The article describes mediation as "not only cheap, but adaptable, working well for personal injury claims, discrimination cases or battles with suppliers".

In an article in Business A.M. (25 Feb) John Sturrock is quoted as saying: "I think we are on the cusp of a real breakthrough. People want to maintain their business relationships, to move forward and make money rather than dwell on events that have happened in the past".

The launch of the Royal Society Report (above) brought (very early) morning coverage on Good Morning Scotland on 27 February.

Core People

We are pleased to announce the appointment of Maxine Gomersall as Core's new administrator. We welcome Maxine, who is now the main point of contact for arrangements for mediations and courses. maxine.gomersall@core-mediation.com

We also bid farewell to Rachel Vellacott who has left in order to develop her career in a bigger organisation. Core and all who work with Core are enormously in debt to Rachel who has set up and administered the Core Office and all Core events during our first year of existence. Quite simply, we would not have reached where we are in such a short period of time without Rachel's loyal and committed support.

We wish you well, Rachel!

To unsubscribe, please contact maxine.gomersall@core-mediation.com

