

## The Mediation Pledge

Millions of pounds are saved every year by organisations and individuals using mediation to manage the way they settle disputes more effectively. Normally parties share the cost of mediation, which will usually be a fraction of the cost and much faster than the process of going to court.

### What is Mediation?

Mediation is a facilitated negotiation which is widely used to settle a whole range of disputes in areas such as:

- Workplace
- Contractual
- Debt
- Housing
- Planning and Environmental
- Consumer
- Family
- Neighbourhood

Mediation creates a confidential forum in which an independent mediator helps parties to reach a solution that they can both agree on. The mediator does not take sides or make judgements, but does ensure that both parties get a chance to state their case, hear the other side, work through the issues that are important to them and build a consensus on a positive future for all.

Parties control their solution, not an outside adjudicator or judge. However mediation does not remove a party's right to legal alternatives if no solution can be found.

### Mediation Works

Mediation is a voluntary process and only takes place if both parties agree they want to find a solution. This explains the high success rate routinely reported by mediators across Scotland, the United Kingdom and elsewhere.

Research into the Aberdeen and Glasgow Sheriff Court mediation pilots, supported by the Scottish Government, shows that 90% of all mediated cases settled and then implemented the agreement. This is compared to a figure of 67% implementation of judgements in traditional court procedures.

(Ross & Bain, In-Court Pilot Mediation Projects, 2010)

### Numbers at a glance

**£300 million**

is the cost of stress related absences from work to the Scottish economy last year

**£58,302,969**

is the cost of litigation to Scotland's local authorities and the health service

**23.4%**

of the claim value is the World Bank estimate of the cost to enforce a contract

**4%**

of the claim value is the average cost of mediation



**“The most consistent finding of research into mediation is high client satisfaction. Research on mediation has shown that most disputes which are referred to mediation will settle.”**

NADRAC Court Referral to ADR:  
Criteria and Research



## Good Stewardship

Increasingly, shareholders and stakeholders in public and private organisations want to see evidence of good stewardship in public and privately run companies. Putting in place a Mediation Pledge sends out a clear signal that your organisation means to resolve disputes at an early stage, with employees or other organisations, in a constructive and rational manner.

## What is the Mediation Pledge?

The Mediation Pledge is a simple statement of intent to use mediation as a means of early dispute resolution where the other party to the dispute agrees. We have included an example at the end of this document.

## Signing the Mediation Pledge

- Indicates a willingness to approach the resolution of disputes in a constructive, reliable and commercially rational way that gives maximum control over the process, the outcome and related costs
- Does not prevent either party from deciding that mediation is not appropriate in any given case
- Is evidence of good stewardship

## Case Study – Construction

The dispute involved an educational establishment and their consultant/supplier and was centred on the quality of the consultant's work. The establishment was claiming damages of £800,000 which was reduced by an initial adjudication to £400,000. The educational establishment, having won their case, decided to pursue the consultant for £65,000 of legal costs. Both parties were still working together on another project and the court case was putting this at risk.

**Dispute duration:** 4 years

**Mediation length:** 8 hours on one day

**Mediation budget:** total cost circa £3,000

“We achieved an acceptable compromise in the circumstances, and retained a working relationship that had been under threat.”

“Our clients would not have been able to resolve in this manner had the case proceeded to court. The outcome enabled other projects to proceed in the knowledge that similar problems would be dealt with differently.”



## Where can I get help?

The Scottish Mediation Network can provide support to organisations adopting the Mediation Pledge by:

- Providing draft text for the Pledge
- Providing draft Contractual Clauses and Codes of Practice
- Advising on Implementation Strategy
- Advising on measurement methods to demonstrate effectiveness
- Training staff in Mediation Techniques
- Providing a mentoring programme so that new mediators can benefit from the expertise of experienced mediators

The Scottish Mediation Network is an independent charity. It was established in 1990 to:

- Raise the profile of mediation in Scotland
- Act as a professional body for mediators in Scotland
- Maintain the Scottish Mediation Register and provide access to quality assured mediation services

### For information on mediation

Visit: [www.scottishmediation.org.uk](http://www.scottishmediation.org.uk)

Call: 0131 556 1221

Email: [admin@scottishmediation.org.uk](mailto:admin@scottishmediation.org.uk)

The Scottish Mediation Network is a registered charity funded by the Justice Directorate of the Scottish Government and the Network for Social Change.

## Case Study – Employer/Employee

A foreign national had worked continuously for his employers for 23 years. Five years ago a dispute arose with his line manager over expectations of promotion, and allegations of unprofessional conduct. The conflict resulted in internal disciplinary action with no clear outcome. The employee lodged a race discrimination action.

**Dispute duration:** conflict ongoing for five years

**Mediation length:** 24 hours over three days

**Mediation budget:** total cost circa £5,500

“I felt my concerns were listened to for the first time in years and that I was able to contribute to informing the senior management of what was going on. The relief I felt was incredible.”

“In this case the mediation provided a confidential setting in which we could reach a conclusion. No one wanted the stress of a public hearing, which could have been damaging to all sides.”

# scottish mediation network

## The Mediation Pledge

We recognise that in many cases mediation will be a less expensive, more effective method of resolution than traditional litigation. We believe that mediation can spare businesses the high costs of litigation, preserve business relationships and result in solutions not available in court.

### We declare our intent on behalf of our organisation that:

- Mediation will be considered and used in all suitable cases whenever accepted by both parties
- If either party believes that the dispute is not suitable for mediation, or if mediation does not produce results satisfactory to the disputants, either party may proceed with litigation
- Even when litigation has been started, we will seek to resolve the matter through mediation with the agreement of both parties
- We will introduce appropriate clauses for mediation in to our contracts in order to settle disputes
- We will introduce appropriate changes to our procedures for dealing with conflict
- We will inform all legal representatives about our commitment to mediation

\_\_\_\_\_ confirms the endorsement of \_\_\_\_\_  
(Name of Signatory) (Name of Organisation)

of the above principles of the Mediation Pledge on \_\_\_\_\_  
(Date)

### Contact details

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Direct line: \_\_\_\_\_

This document does not impose any legally binding obligations on its signatories.

Should an external mediator be required, the Scottish Mediation Network holds the Scottish Mediation Register, available at [www.scottishmediation.org.uk](http://www.scottishmediation.org.uk) and hosts the Scottish Mediation Helpline, available on **0131 556 8118** as a referral point for all Registered Mediators in Scotland. Training in Conflict Handling, Mediation Awareness and Training for Mediators is available through the Scottish Mediation Network.

The Scottish Mediation Network is a registered charity funded by the Justice Directorate of the Scottish Government.

## Enabling Conflict Resolution

Scottish Charity Number SC034921 Company Registered in Scotland SC258173 Registered Office: 18 York Place, Edinburgh EH1 3EP