



Chair's Address  
December 2014

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Many thanks to everyone who participated in this year's College events - the annual conference, PPC conference and AGM. Thanks also to so many of you who keep in contact with us and share news and information.

I am honoured to be voted back on the Board as Chair. The last year as Chair has given me a greater insight into the needs and requirements of our members. We have had an amazing response to our improved service, much to the credit of Laura Mackey, our Co-ordinator. These improvements have resulted in our membership doubling over two years. It is so good to see so many of you passionate about standards and best practice, and that you are happy to share your knowledge and work together on moving forwards.

Changes are afoot for community mediation: the new law Anti-Social Behaviour, Crime and Policing Act 2014 states that communities must use rehabilitation and reparative measures to deal with low level anti-social behaviour. One of the choices for dealing with this is the use of mediation. In the next issue I will be detailing the full impact of this and what the College of Mediators is doing in response to it. Also as a teaser, I will discuss the changes for Special Educational Needs mediation and the impact that has had.

It is going to be an extremely busy year ahead for the College! Please look out for any further updates on the new College website and by email. I would like to invite you to send in your thoughts, queries and questions on on-line mediation as we will also be discussing that in the next issue and I would like your comments to be published.

Kindest Regards to you all, Judith Onley, Chair

**Thursday 26<sup>th</sup> February** North West Mediation Network Meeting – (venue tbc)

**Tuesday 3<sup>rd</sup> March** London and South East Network Meeting - Relate London North West, Harrow

**Thursday 21<sup>st</sup> May** North West Mediation Network Meeting - (venue tbc)

**Thursday 11<sup>th</sup> June** College of Mediators Annual Conference - Loughborough University

**Wednesday 23<sup>rd</sup> September** College of Mediators PPC Conference - Loughborough University

**Wednesday 30<sup>th</sup> September** London and South East Network Meeting Relate London North West, Harrow

**Friday 16<sup>th</sup> October** North West Mediation Network Meeting – (venue tbc)

More information about each of these events will be available soon so please keep an eye on our upcoming training page on the website or watch out for email updates from the College.

In the meantime, we wish you all the best for the holiday season and every success for the mediation community in 2015!

## The Data Protection Act (DPA) John Walker

As mediators we talk a lot to clients about confidentiality, about legal professional privilege and respect for keeping information between the four walls. What we need to do is to think more widely about our obligations and legal responsibilities. Where do we keep our client's records, both paper and electronic records? How long should we keep them? How do we communicate with clients - if it is by email how do we protect that information from the big bad world of cyber-crime? What happens if someone breaks into our workplace or home office? If your laptop was stolen could anybody get at the documents stored inside?

The DPA places stringent legal obligations to make sure that our recording keeping is accurate, for the right purpose and that it is safe. Registration with the Information Commissioner Office (ICO) is a requirement for many independent mediators, and certainly for every service.

The DPA regards everyone's personal data as sacrosanct. It can be shared without your consent in some circumstances, but on the whole sharing information must be done with consent. So if you have a laptop or PC that someone else can use and your files are not secured you can breach the DPA. If you leave files out on your desk and anyone other than your work colleagues can see those files, you are breaching the DPA. If you leave files in the car whilst you nip in for a pint of milk and the car is stolen, YOU have breached the DPA. If you send emails that contain personal information that are hacked and not encrypted you are breaching the DPA.

The ICO can fine individuals and organisations. There are criminal offences for being reckless or selling on individual's data. The ICO website [www.ico.org.uk](http://www.ico.org.uk) has a lot of really good advice, and also a lot of actual cases about breaches of the DPA.

Getting it right takes time to consider appropriate action. Do you have a DPA policy? If so what does it say and so you and colleagues follow it? If not, why not?

How do you make sure emails are secure when they contain personal information? Have you thought about how to make it safer? Have you considered password protecting individual documents? Are you rigorous with office security, at home and at work? Do you lock papers away at night? Or when you are on holiday?

All of this sounds like another layer of admin, another piece of bureaucracy designed to stop you simply getting on with your job.

But, think of it another way. What do you expect of your bank? Your GP? Your kids' school? What would you think if you knew that personal, intimate information about you and your family had been left out for anyone to read in the surgery? Or had been dumped from a stolen car onto the street scattered for any passer-by to see? Or had been read by the doctor's kids or visitors on a weekend when it was left on the kitchen table?

We must strive to keep our client's information as private and as confidential as possible. Good DPA practice is as much a part of good mediation practice as signing an Agreement to Mediate.

John Walker is a solicitor and family mediator, working in Leicester. He is a member of the College of Mediators.

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**Kids in the Middle — Duncan Fisher OBE**



Launched in September this year, [www.KidsintheMiddle.org.uk](http://www.KidsintheMiddle.org.uk) provides support directly for young people by young people. It features videos by young people about their perspective, peer mentoring and it appeals to young people to have a voice and tell their story. The three key messages are: it's not your fault, you are not alone and it's OK to get help.

The idea of Kids in the Middle started seven years ago when I witnessed a friend of my daughter go through a horrible family separation. The school was clearly not coping, and other parents (including myself) were keeping a safe distance from the battle zone. Something simple was needed for this child - very accessible and uncomplicated, a first line of reassurance and support. The school needed a tool to help.

After considerable effort to raise funds from foundations and to engage the major children's charities - an effort that yielded no success at all - it became clear that either we fund this from the grass-roots or give up. 18 months later we launched the website with funding raised almost entirely by teenagers and by family lawyers and mediators doing fundraising campaigns. These are the only people who seem really to understand the experience of kids in the middle and are prepared to step up to do something.

With the site up and running and looking good, the next stage of the adventure is to get it widely known. So in 2014-2015 we are running a campaign to communicate the message: *A Voice for Every Kid in the Middle*. We are going to run a social media campaign to gather stories from young people. We are going to make short films about kids having a voice - for example, mediation services that specifically engage children in the process and get parents to listen to them.

We will fund this all through a combination of further fundraising by teenagers and family lawyers and mediators, by some small grant applications, and predominantly by asking family lawyers and mediators to join us and become members.

Children in separating families do tend to get overlooked. The conflicts and anxiety suck in energy. The lawyers, mediators and courts circulate around the parents. The rest of the world tends to keep a safe distance, the one thing the kids in the middle simply cannot do. [KidsintheMiddle.org.uk](http://KidsintheMiddle.org.uk) is part of the community of care that we can build around these children, something on-line where they already spend much of their time.

So we would like to invite all mediators to become members of Kids in the Middle (follow the "For the Adults" link on the home page). We simply cannot do this without such grass-roots support.

## Mediation in Belarus



Mediation was first introduced to Belarus by German mediators in 2007. The exciting journey for the first Belarussian mediators had begun from the first training seminars and learning about mediation in Germany.

Since then an enormous amount of work was done by the mediators to promote mediation on all levels, to raise awareness nationally, to develop best possible training, to set standards and stimulate legal recognition. Just a few years later, in 2011-2012, a first pilot project for the use of mediation in commercial and other disputes was run.

The results of the project proved the effectiveness of mediation and were most positive: out of the 116 disputes, 52 per cent were resolved with an agreement signed; 92 percent of the agreements were executed voluntarily. The findings and the outcomes of the project helped to accelerate the development of the Belarus Law on Mediation, which came into force on the 25<sup>th</sup> of January 2014. Further to this, the Ministry of Justice of Belarus and the Ministers Council introduced 5 law amendments for using mediation and approved the Rules for Mediation and Rules for Professional Ethics, which all provide legal framework for mediation in Belarus. The project had also provided a fantastic opportunity for Belarussian mediators to practice mediation and gain inspiration for pushing the development of the profession in their country further.

Nowadays mediation is firstly seen as an ADR form for court cases and an ‘in-court’ model of mediation is promoted. Mediation practice is seen as ‘non-commercial’ and in order to become a mediator, an individual should achieve a Certificate of a mediator by Ministry of Justice. The foundation course is 140 hours long for lawyers and 170 hours for those without legal background. There are currently three national mediation centres in the country, which are approved by the government to train mediators, and so far 108 Belarussian mediators have qualified there.

Interestingly, despite the supportive legislation and availability of qualified mediators, for one reason or another, the courts refused to use mediators for dispute resolution in court cases. There was a clear need for further action that would attract more attention to mediation, create an arena for addressing the obstacles and defining the potential for mediation in Belarus. This was the idea behind the “First Republican Mediation Forum”, which took place in Minsk on the 15<sup>th</sup> of October 2014 and the “Week of Mediation” also organised last month.

The concept of the “Week of mediation” and the Forum belongs to the Centre for Mediation and Negotiation – a non-commercial organisation, which was created in 2012 in order to promote mediation in Belarus. The Centre’s idea was further supported by the Republic’s College of Lawyers. Together they became the main organisers of all events, which were part of the “Week of mediation”.

Prior to the events there was a significant distribution of information about mediation, in-

## Mediation in Belarus—continued

cluding a number of newspaper articles, radio and TV interviews. High volume of printed material was sent out to all parts of the country. One of the capital's courts had started a pilot project for resolving the cases that were 'stuck' at the court for over a year. 40 mediations were provided to the court on a voluntary basis and 12 disputes were resolved with a mediation agreement signed. Around 10 more disputes are currently in mediation. In different cities across Belarus other mediators volunteered their time and conducted mediation under the "Open doors" initiative.

The Mediation Forum was the central event of the "Week of mediation". Over 160 people took part in the Forum, including representatives of the President's Administration, the Minister of Justice, the Minister of Labour and Social Protection, representatives of the Parliament. The plenary session consisted of two parts. During the first part of the session the Supreme Court had stated that the current legislation does not provide support for an effective multidisciplinary approach in conflict resolution, there is a range of unresolved issues, for example, in relation to mediators' being paid for mediating court cases. As the result of this open discussion it was decided that further proposals for changing the current legislation on mediation will be developed.

The second part of the Forum was dedicated to sharing knowledge about the development of mediation in other countries. Specially invited experts such as Sarah Gonzales (USA), Bill Marsh (United Kingdom) and Alexander Karpenko (Russia) delivered their speeches about the specifics of mediation development in their countries, followed by their workshops. As the Forum came to an end, the "Week of mediation" was still on. On the 16<sup>th</sup> of October Bill Marsh had presented two seminars, for the judges of Belarus – talking about the possible models of cooperation between the courts and the mediators, and for the representatives of the Ministry of Justice about the possible ways the Ministry may aid the promotion of mediation. Both seminars were valued very highly by the participants. There were dozens of questions raised and answered by the expert.

The "Week of mediation" was concluded by Bill Marsh's two-day training course on commercial mediation. The course was attended by mediators from Kazakhstan, Kyrgyzstan, Russia and Belarus. No less inspiring was another outcome of the "Week of mediation" initiative – there were 4 partnership agreements signed between mediators from the CIS countries.

By organising the "Week of mediation" the Belarussian mediators had succeeded in drawing attention from the government to the need for developing current legislation, promoting mediation and improving the standards for mediation and quality of mediation training. They are taking initiative in developing their own proposals for the Ministry of Justice in the near future and stimulating further collaborative work with other government agencies. Mediators in Belarus are carving out their unique way for the mediator profession and give the most inspiring example to colleagues in surrounding countries where traditionally all conflicts are resolved from the position of higher authority and power.

*Written by: Liliya Vlasova (doctor of law, mediator, founder of the Centre for Mediation and Negotiation) and Jen Rumble (family mediator, JR Family Mediation, UK).*

## AMATI – A New Voice for Mediation Training

In March this year, the Association of Mediation Assessors, Trainers and Instructors (AMATI) was launched on the basis of invitations extended to founding members. Within the space of a few weeks the new association attracted over 130 members, most of whom were accredited to the International Mediation Institute as fairly senior practitioners. These included such luminaries in the field as Amanda Bucklow, Charles Middleton-Smith, Michel Kallipetis WC, Michael Lind, Paul Randolph, Phillip Howell-Richardson and Jane Gunn from the UK, Alan Limbury and Paul Gibson (AUS), Thomas Valenti and Hal Abramson (USA), Linda Reijerkerk and Juanita Wijnands (NL), Greg Bond (GER) and Jeremy Lack (CH) among others. Our good friend Prof. Elizabeth Stokoe is lending the venture academic support. The Advisory Board is impressive and details can be seen at [www.amati.org.uk](http://www.amati.org.uk). The association also has Twitter and Linked-In accounts and a Facebook page. Its office is in Covent Garden, London, but also operates out of Liverpool.

AMATI is the brainchild of Andrew Goodman, well-known commercial mediator, trainer and convenor of the SCMA. The idea behind the project is to create and maintain standards in mediation training and assessment, to provide mentoring to those new to training and assessment, either by direct contact or at events, to test out new ideas and new structures, and to provide a forum for discussion on an inclusive basis. He has so far attracted the support of both IMI and the World Mediation Organisation, and mediation institutes in Ireland, the Netherlands, Australia and Romania. Membership extends across the world from Brazil to the Philippines.

AMATI is both inclusive and generic, looking at standards of training in family, community, workplace and civil mediation equally. It will voice its concerns and make proposals to the CMC, FMC, the Bar, the Law Society, RICS and other professional bodies and academic institutions engaged in mediation training.

On 22 September the inaugural AMATI conference on The Future of Mediation Training took place at the IDRC in London. The event attracted 40 delegates who travelled from Australia, USA, Russia, Romania, Greece, Italy, Germany, the Netherlands and Ireland (see pictures). Talks were provided by Paul Gibson, Amanda Bucklow, Juanita Wijnands, Linda Reijerkerk, Hal Abramson (live from New York), Nicoleta Munteanu, Irena Vanenkova, with Thomas Valenti and Gerry Rooney chairing discussions.

Close co-operation between the College of Mediators and AMATI has been mooted, and discussions will take place to see what benefits are likely to flow from such a relationship. In the meantime, members of the College who train or assess, and who wish to secure an invitation to join AMATI should send their details to [info@amati.org.uk](mailto:info@amati.org.uk) There is no joining fee but founding membership is likely to close by the end of the year, after which a quality threshold will be introduced.

