

# Proposed Mediation (Scotland) Bill

## Introduction

A proposal for a Bill to increase the use and consistency of mediation services for certain civil cases by establishing a new process of court-initiated mediation that includes an initial mandatory process involving a statutory duty mediator. The consultation runs from 29 May 2019 to 20 August 2019. All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document. Questions marked with an asterisk (\*) require an answer. All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response. Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded. Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here: [Consultation document Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice attached to this consultation which explains how my personal data will be used

## About you

Please choose whether you are responding as an individual or on behalf of an organisation. Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

an individual

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

Member of the public

**Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:**

retired Lecturer in Social Work

Please select the category which best describes your organisation

*No Response*

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your name or the name of your organisation. (Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Valentine Scarlett

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. We will not publish these details.

## Aim and approach

Q1. Which of the following best expresses your view of legislating to increase the use and consistency of mediation services for civil cases in Scotland?

Fully supportive

**Please explain the reasons for your response.**

I am in favour of any proposal that enables people to begin to understand both perspectives in a dispute. This then means there is a possibility of growth in the individual and bodes well for the future of the relationship hopefully allowing it to remain civil.

## Details of the proposal

Q2. Which of the following best expresses your view of requiring the parties to a civil court case (unless it is an excluded case) to complete a self-test questionnaire and attend a mandatory Mediation Information Session with a duty mediator?

Fully supportive

**Please explain the reasons for your response.**

It enables all individuals to gain some understanding of what Mediation entails and it's possible outcomes.

Q3. Which of the following cases (if any) do you agree should be excluded from the requirement to complete a self-test questionnaire and attend a Mediation Information Session (tick all that apply)?

proceedings relating to the Abusive Behaviour and Sexual Harm (Scotland) Act, the Domestic Abuse (Scotland) Act and any other proceedings relating to domestic abuse and sexual harassment cases

any proceedings relating to civil actions for rape and other sexual offences

**Please explain the reason for your response.**

I have specified the first two because they are both highly emotionally charged situations. If mediation were to occur it would not be at the point suggested by this Proposed Mediation Bill.

Q4. Which of the following best expresses your view of giving parties who agree to mediate access to a process that can lead to a Mediation Agreement and, where appropriate, a Mediation Settlement Agreement?

Fully supportive

**Please explain the reasons for this response.**

The reasons are obvious. If the parties agree to mediate then it goes without saying they should have full access to a process etc.

Q5. Which of the following best expresses your view of giving the Scottish Ministers power to extend the mandatory part of the process (the self-test questionnaire and Mediation Information Session) so that it applies to potential litigants who are yet to go to court?

Fully supportive

**Please explain the reasons for your response.**

Definitely, this could save stress, time and money for the people concerned.

## Financial implications

Q6. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

	Significant increase in cost	Some increase in cost	Broadly cost-neutral	Some reduction in cost	Significant reduction in cost	Unsure
(a) Government (including court services, legal aid etc.)					X	
(b) Businesses						X
(c) Third Sector organisations		X				

Q6. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

<b>(d) Mediators and mediation organisations</b>	X					
<b>(e) Individuals</b>				X		

**Please explain the reasons for your response.**

I am not quite sure what is meant by businesses, but the courts would save money clearly by not having to hold sessions. Third Sector organisations might see some increase in cost by people using them as support during the process. Mediators etc will have a big increase in costs as people use their services. As for the individuals they will save money, if they are not getting Legal Aid, by not having to pay court costs.

Q7. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

Right now I haven't got a clue

## Equalities

Q8. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, maternity and pregnancy, marriage and civil partnership, race, religion or belief, sex, sexual orientation?

Positive

**Please explain the reasons for your response.**

I would hope that it would impact on all of these issues positively. The mediation process could open and explore the sources of many of the issues that might have occurred in a civil case and find that there are subtle undertones of discrimination. that can be teased out along with the actual 'problem'.

Q9. In what ways could any negative impact of the proposed Bill on equality be minimised or avoided?

Again through open listening and discussion

## Sustainability

Q10. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes

Q10. Do you consider that the proposed Bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

**Please explain the reasons for your response.**

I think it would have a beneficial impact on these three elements. It should cut back on the time people spend in court, cut back on stress and cut back on energy costs

## General

Q11. Do you have any other comments or suggestions on the proposal?

It will clearly take time for this bill to be implemented and for people to get used to it in the context in which it will be used. People like being listened to and I would have thought that the opportunity to resolve issues in a way that saves money and is less stressful would ultimately appeal to them. It will make for a better society. It needs to be sold carefully to the public. It is about giving them control over their lives and how they move forward. It is about making them feel better about themselves.