

**PRESENTATION TO THE SELECT STANDING COMMITTEE ON FINANCE AND GOVERNMENT
SERVICES**

September 20, 2013

Vancouver

Thank you for this opportunity to provide input as part of the 2014 Budget Consultation process.

Mediate BC wishes to provide useful comments and suggestions to support the government's goals of a balanced budget and improving how government delivers programs and services.

Our focus is on improving how BC citizens are able to deal with conflict and I will attempt to connect the dots between that goal and the goal of a balanced budget within a healthy economy.

1. Everyone experiences conflict. Individuals, families, organizations, business and communities face conflict of various kinds. It is not "if" but "when" and "how".
2. Conflict is not necessarily "bad" – it can result in significant learning opportunities and it can stimulate growth and change. However, unaddressed conflict creates significant costs to the economy, the public and government.
3. We know that the financial implications of conflict are significant. A few examples:
 - a. The Vanier Institute reported in 2010 that approximately 40% of first marriages will end in divorce (and that doesn't include common law couples).
 - b. Statistics Canada reports that in 2010/11 almost 11,000 new divorce cases were commenced in BC (and that is just the tip of the iceberg of all family disputes in the courts and certainly outside of the courts).
 - c. A recent survey reported that the average fee for a contested divorce in Western Canada is \$16,000 per party.
 - d. The more a family spends on the formal justice system to resolve family conflict:
 - i. the less it has to spend on the fundamental needs of its children; and
 - ii. the less it can spend in the marketplace on consumer and other goods and services that bolster our economy.
 - e. In the workplace, research shows that:
 - i. Workplace conflict is ubiquitous and costly for business and the public sector.
 - ii. Conflicts between employees:
 1. Result in over 65% of performance problems
 2. Cause up to 90% of involuntary departures

3. Divert productive time and increase absenteeism
 4. Can lead to formal complaints and lawsuits
 5. Divert precious management time towards recruiting and retraining
4. The full cost of unresolved conflict goes beyond money. Problems most often come in “clusters” and festering conflict can escalate to create other types of problems including stress, medical and mental health problems, relationship issues and secondary financial concerns. It can also create cost for other sectors such as social services, health, police services etc. There are less tangible but serious costs as well - the more time a family has to spend in a formal process to resolve conflict the less time and energy it has to devote to parenting children.
5. The purpose of Mediate BC Society is to support people to resolve their conflicts effectively, quickly and affordably either on their own or with the assistance of trained and experienced mediators and to increase their capacity to manage inevitable future conflict arising from their ongoing business or parental relationships.
6. Mediation allows the parties themselves to discuss and resolve a conflict/dispute with the assistance of a neutral third party – the mediator. The mediator does not make any decisions; the parties are empowered to reach an agreement directly. Mediate BC administers rosters of civil and family mediators with a focus on quality and accessibility to the public.
7. Mediation is known to be:
 - a. Practical
 - b. Affordable
 - c. Confidential
 - d. Timely
 - e. Safe
8. In addition, mediation:
 - a. Considers the parties’ interests/needs in addition to their legal rights
 - b. creates uniquely tailored solutions
 - c. preserves relationships
 - d. allows parties to make their own decisions creating more durable outcomes
 - e. increases conflict management skills
9. Our research shows that mediation saves money in at least five areas:
 - a. System costs: Resolving conflicts outside of, or earlier in, the court system allows limited system resources to be re-allocated to other matters. Mediated matters that proceed to a court process take less time as the issues are narrowed and the parties are better prepared;

- b. Personal costs: People spend less money on legal and process costs, preserving family savings and freeing up money to spend in the economy;
 - c. Business and social costs: Mediation educates people about healthy ways to resolve conflict early and directly. This approach avoids the cost of unresolved conflict by smoothing business interactions, improving workplace environments and enhancing joint parenting to the lasting benefit of children.
 - d. Government cost can be saved by reducing workplace conflict and the costs associated with adversarial litigation involving the government.
 - e. Technology has been proven to be effective in making mediation accessible to people who are not able or willing to meet in person. This saves the parties' transportation costs, reduces time off from work and allows flexible scheduling.
10. Last year's report of this Select Committee recommended that the provincial government "provide stable and long-term funding for the justice system, including support and programs to ensure equitable access and alternative dispute resolutions." Interestingly, the Budget Consultation Paper 2014 does not include these items in the lists of options provided and the questions posed.
11. Mediate BC supports a strong a viable court system and our successful Court Mediation Program provides free mediation services to small claims litigants in five registries of the Provincial Court. In addition, ICBC mediators are required to be members of our civil roster. At the same time, more resources are needed to ensure that BC citizens have access to other ways of resolving their conflicts, including mediation.
12. I have distributed a **Fact Sheet** which highlights many of Mediate BC's initiatives in this area. We are trying to use our resources as effectively and collaboratively as possible but so much more needs to be done.
13. The 2014 Budget Consultation paper asks: "What are priority programs and services that government should continue or develop?" and "What could government do differently to help reduce costs to government and taxpayers?" Mediate BC suggests that effective conflict resolution and mediation should receive higher priority in the 2014 budget because an investment in these areas will undoubtedly result in significant savings for government as well as businesses, families and individuals not just in the justice sector but throughout the economy. It will pay for itself easily over time. In addition, it will results in the significant non-financial benefits noted earlier.
14. Mediate BC suggests the following as examples of promising new initiatives that require funding:
 - a. Communication and public education initiatives about mediation particularly in the area of family conflict. This government should be very proud of the new Family Law Act which came into force in March of 2013. It sends a very clear

message that families should consider “out of court options” including mediation before resorting to the courts. However, there is little or no government funded public education programming to ensure that families are aware of this legislation or these important options. Mediate BC is very willing to work with government communications experts to get the word out to families directly and to their “trusted intermediaries” (lawyers, accountants, doctors, etc.).

- b. Mediate BC is providing problem-solving and mediation referral services within the Vancouver Justice Access Centre. With appropriate funding we could offer similar services to the public through the new Victoria JAC and, through the effective use of technology, to citizens in other areas of the province.
- c. The Court Mediation Program could be expanded to provide free mediation services to small claims litigants beyond the five Provincial Court registries currently served using streamlined processes and technology.
- d. Building on the Family Justice Centres and the JACs, a Centre for Families could provide accessible, affordable, multi-disciplinary, public and private resources to families in conflict as well as training and experience to graduate students from a variety of disciplines. We are currently exploring the creative model implemented at the University of Denver.
- e. Increasing funding for legal aid earmarked for family mediation services.

Mediate BC has a proven track record of working successfully with government and we offer our efforts and expertise going forward.

We hope that these comments are helpful to the Committee. Thank you for this opportunity to provide our input.

Respectfully,



Kari D. Boyle
Executive Director, Mediate BC Society

MEDIATE BC SOCIETY - FACT SHEET

Mediate BC is a not for profit organization serving BC citizens in partnership with government since 1998. Mediate BC is the leading mediation and conflict resolution organization in BC. We are able and ready to help this new government meet its objectives by:

Providing BC citizens with information, resources and support to help them resolve conflict directly

- our Roster Program is the BC "hub" for information about the mediation process, mediators and related issues (especially the new Family Law Act and its emphasis on out of court solutions)
- our website provides lists of qualified mediators (Civil, Family and Child Protection)¹
- the Court Mediation Program, which administers free mediation services for litigants in five Small Claims Court registries has processed over 20,000 referrals. More than 50% settle at mediation which alleviates pressure on the court.
- we provide clients of the Vancouver Justice Access Centre access to low cost civil mediation services
- our website provides comprehensive information about mediation, services and other resources
- we provide presentations and public information sessions about mediation and the Rosters

Piloting innovative conflict resolution approaches:

- our study which confirmed the effective and safe use of technology-assisted family mediation will enhance the public's access to quality mediation services
- we are actively supporting the design of the new Civil Resolution Tribunal's online dispute resolution process and platform
- we are piloting innovative resolution of small claims disputes through facilitated, asynchronous online dispute resolution and telephone or web-conference distance mediation
- we have recently reported on mediating disputes involving child support for adult children
- we supported a project for First Nations communities to develop their own internal conflict resolution processes in the wake of the amendments to the Federal Human Rights Act.
- supported by funding from MCFD, we designing and implemented a practicum program which trained 40 new child protection mediators, many of whom came from Aboriginal communities and/or other under-served areas of the province.

Increasing capacity for innovative solutions by providing a roster of qualified mediators and offering them ongoing training and experience opportunities:

- we are developing a comprehensive course for mediators to obtain "distance mediator accreditation"
- we also provide innovative practicum and professional development opportunities to civil and family mediators, particularly to support the new Family Law Act

Providing communication and conflict resolution skills training to the public including individuals, community organizations, businesses, employers, and professionals

¹ Administered on behalf of the Child Protection Mediation Program, Family Justice Services Division, Ministry of Justice.