

COMMUNITY MEDIATION

RESOLVING NEIGHBOURHOOD PROBLEMS INFORMALLY

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SACRO aims to make communities safer by providing a range of effective services across Scotland to reduce conflict and offending and by influencing criminal justice and social policy.

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Introduction

This guide is the first in a series of six which cover a range of issues related to the setting up and running of community mediation services. Although hard to quantify exactly, all the available evidence seems to indicate a significant upward trend in the incidence of neighbour disputes over the last ten years. The resulting challenge presented to social housing providers and other agencies is considerable. These guides are part of a broader initiative by Sacro and the Scottish Government to assist social housing providers in meeting this challenge.

Scottish Community Mediation Centre

The Scottish Community Mediation Centre (SCMC) provides high quality training and consultancy work in the field of Community Mediation and constructive conflict resolution.

SCMC is managed by Sacro and funded by the Scottish Government. We provide services to a wide range of national, international and local government agencies as well as bodies such as charities, social housing providers and police.

The Centre acts as the administrative base for the Scottish Community Mediation Network and its accreditation schemes.

We offer a range of resources on all issues around constructive conflict resolution in neighbourhoods.

Training, advice, guidance and assistance are available to mediation services, social landlords, and all other agencies concerned with neighbourhood conflict.

What Is Mediation?

Conflicts arise in all aspects of our lives and can be resolved in a variety of different ways, both formal and informal. We are all familiar with formal methods of conflict resolution such as those provided by civil and criminal law, and we are all practiced in the use of informal techniques such as negotiation and bargaining. Some types of dispute, however, are not easy to resolve satisfactorily through the courts but at the same time seem difficult for the people involved to resolve themselves. Mediation is aimed at assisting in the resolution of such disputes through a process of skilled and principled intervention. As a process, however, it differs from other methods of dispute resolution in some very important respects:

- Mediators are impartial – rather than representing the interests of one party they are there to help everyone reach an agreed resolution and to increase mutual understanding..
- The mediation process gives everyone involved the opportunity to be fully heard, and to hear (usually for the first time) other sides of the story.
- Mediators do not pass judgement or impose solutions – the people involved are helped to voluntarily take responsibility for finding a practical way forward, although mediators will offer skilled assistance and support.
- The dispute is not aired in public – mediation is a private process involving only the mediators and the parties to the dispute, and mediators act under a detailed policy of confidentiality.
- An important part of the mediator’s job is to identify and help resolve the underlying causes of a conflict as well as the symptoms – mediation agreements are aimed at long-term solutions
- While mediation usually involves discussion of issues around past events, its main focus is on what is going to happen and how people will behave towards one another in the future.
- Because mediation is informal it can be a quick and comparatively cheap method of resolving disputes.

In this guide we will talk about mediation in relation to neighbour disputes, but mediation is used in a wide and increasing number of settings, from resolving playground disputes to helping to resolve Health Service complaints or brokering peace in situations of armed conflict. The following types of mediation may also have relevance to social housing providers:

Workplace Mediation – this can assist in resolving some workplace disputes, particularly where conflicts are interpersonal in nature.

Young People/Families Mediation – this assists in situations of threatened or actual homelessness involving young people.

Complaints Procedures – mediation can be used as a voluntary alternative to or initial stage of formal complaints procedures for public services.

Commercial Mediation – mediation is increasingly used as an alternative to civil litigation in commercial disputes.

In all of the above, as in other forms of mediation, the process of resolving difficulties can be effected in a speedy and cost-efficient way, while at the same time taking steps to ensure that future relationships between disputants are made more positive, thus reducing the likelihood of future conflict.

What is Community Mediation?

Community mediation, or neighbour mediation as it is sometimes known, was developed in the 1980s as a response to increased concern at the level of neighbourhood disputes. It is now a widespread and well-established tool for dispute resolution, with hundreds of community mediation centres operating both in the UK and the rest of the world. In Scotland alone, thousands of neighbour disputes have been handled by mediators, most involving two sets of neighbours, but some involving whole neighbourhoods of fifty to a hundred or more households. Community mediation in Scotland has its own umbrella body (Scottish Community Mediation Network) which administers a stringent service and mediator accreditation scheme.

Community Mediation services deal with a wide range of neighbour disputes, all of which will be familiar to social housing providers. Most services cite noise as being the main presenting problem (normally around 50% of all cases), but disputes around children, boundaries, use of common areas, abusive behaviour, vehicles, rubbish, pets, and a wide variety of other issues are all commonplace. Some disputes can be seemingly trivial and short-lived (although trivial disputes can often get out of hand), others are serious and chronic, making the lives of all involved a misery and taxing the resources of the police, housing officers, social workers and other public agencies.

A recent trend throughout Scotland has been the sharp rise in disputes between neighbours from different tenures. It is a mistake to think that neighbour conflict is solely located in the social housing sector, and police forces, advice agencies, housing officers and environmental services staff have all pointed to disputes between owner-occupiers and tenants as being an increasing problem: mediation is frequently the only satisfactory method available to deal with such disputes.

Is Neighbour Conflict A Real Issue In Your Area?

In many ways the surprising thing is not that there are so many neighbours in conflict, but that there are not many more. Modern urban living is full of stress, and more and more people view their home as a place of escape or sanctuary. If this sanctuary is invaded, either by noise or other means, it is predictable that conflict will often result. Add to this the problems caused by much of modern building construction (inadequate soundproofing, poor estate design, space constraints), a sharp increase in the ownership of noisy domestic appliances, and a mobile society where people sometimes do not even know who their neighbours are, and we have an incendiary mixture which is bound to burst into flames on occasion. There are different but equally challenging issues in rural settings: use of land has become an increasing issue, and many rural communities experience tensions between old-established and incoming families and lifestyles.

The experience of mediation projects in Scotland is that neighbour disputes are having a real and increasing negative impact on the wellbeing of our communities, both urban and rural. The real cost of such disputes is not easily measured, but a study undertaken for Fife Health Board found neighbour problems to be a substantial contributor to stress-related diseases and general ill-health. A report in by the Scottish Consumer Council identified neighbour disputes as being the single most frequent issue

How Is Community Mediation Delivered?

There are a variety of different models for delivering community mediation , and the advantages and disadvantages of these are discussed in the next guide in this series, "Community Mediation: Choosing A Model Of Service Delivery". Most services, however, are either independent charities funded by local authorities and other agencies to provide a service, or are in-house services with mediators being employed directly by the authority: some services use a mix of employees and volunteer mediators, others use employees only. Most accept disputes from all housing tenures, often taking direct referrals from housing departments, police, environmental services, CABx and other agencies.

Regardless of the model of delivery, the best services are those which have access to in-depth training courses delivered by trainers who are themselves experienced community mediators, adequate case-management systems and practice guidelines, and a sound support and supervision structure for mediators. It would not be reasonable to send someone on a two-day training course and expect them to emerge from it as a competent housing officer - the same is true for mediators.

How Does Community Mediation Work?

Mediation services will differ in the detail of their practice, but the majority will have a process similar to the one outlined below:

- a) Referrals are taken from the Police; Housing Dept, Environmental Services and a range of other agencies or from people directly involved in disputes themselves. Services usually only need one party in the dispute to agree to try mediation – it is part of the mediator's job to obtain the other party's agreement.
- b) Many conflicts are resolved at this early stage, as a result of advice, guidance and assistance given by the mediators – this may be advice on how to approach a neighbour, or helping someone clarify the range of options open to them.
- c) If full mediation intervention appears appropriate the mediators will visit one of the parties to the dispute in their home (usually the person who has initiated a complaint), and will explain what mediation involves. They will listen to the first party's description of the dispute, including its origins, the current situation, how they feel about it, what they would like to see happen, and whether they would be prepared to meet the other neighbour in a mediation meeting.
- d) With the first party's permission, the mediators will then visit the second party to the dispute and follow the same procedure. If the second party is also willing to meet, a mediation meeting will be arranged at a neutral venue. If face-to-face work is not appropriate, techniques such as shuttle diplomacy and exploring strategies for negotiation can be used. Sometimes disputes are settled at this point, without proceeding to a mediation meeting.
- e) The mediation meeting is structured to make sure everyone has their say, and is able to talk about the real causes of the dispute. The mediators make an opening statement, describing the purpose and structure of the meeting, and agreeing behavioural ground rules. Both sides are then given time to state what has been happening, how it is affecting them, and what they would like to see happen in the future. Following this, there is an open exchange where the mediator helps to distinguish the real points at issue, find areas of common concern, and help everyone identify mutually-agreeable and appropriate ways forward. Finally, a detailed agreement is made as to how both sides will act in the future.

Are All Neighbour Disputes Suitable For Mediation?

There are two opposing myths about the potential for community mediation, both frequently heard. The first is that mediation is only suitable for very minor squabbles which are in any case of no real significance. The second is that mediation is suitable for all situations of conflict between neighbours regardless of the characteristics and severity of the dispute. Both are, of course, wrong. Although mediators like to be asked to intervene when disputes are at an early and comparatively uneventful stage, in practice this only sometimes happens. All of the established Scottish services have successfully resolved cases where the problem at first sight seemed intractable and had reached the stage of low-level violence being a threat or a reality: some have dealt with cases which, had they not been resolved, would in all likelihood have resulted in serious injury. Equally, however, mediation is rarely a suitable response in cases where one neighbour is waging a premeditated campaign of violent harassment on another, nor where one party is out of touch with reality or incapable of controlling their actions. There are situations where a legal response is the only appropriate and effective one, and to attempt mediation in such circumstances would be at best irresponsible, and possibly even dangerous. Most mediation services have referral criteria, discussed and negotiated with referring agencies, to filter out unsuitable cases. The following is a typical set of indicators for inappropriate cases:

- The dispute has moved to a stage of violent conflict
- There is an important point of legal principle involved
- The dispute is motivated by overt prejudice
- The point at issue is a crucial and non-negotiable one
- One party has severe addiction or mental health problems which prevent them from participating effectively.

Does Community Mediation Work?

Intervention in neighbour disputes is a delicate and difficult process, and as with other forms of intervention, mediation does not give a guarantee of success. Moreover, the process of mediation is a voluntary one, and either party is free to refuse to become involved or to disengage at any time. Despite this, figures derived from over ten years of community mediation activity in Scotland show that mediation services typically achieve either a significant improvement or complete resolution of issues in 55-60% of all cases where they become involved (this includes referrals where only one of the parties has expressed an interest in mediation): where both parties have agreed to mediation this figure rises to 75-85%. There has not been comprehensive research on the long-term outcomes of mediation intervention, but case monitoring from some Scottish projects suggests that a substantial majority of mediation agreements are still holding six months after they are formulated.

These results suggest that mediation is frequently more effective than other approaches in resolving neighbour disputes: police officers are often hampered by lack of corroboration; housing officers may find no clear evidence of a breach of tenancy agreement; civil legal actions may be impractical due to cost or uncertainty. In many ways, this is not surprising as mediators have both the specialised training and the time resources to bring in-depth techniques to bear on disputes. It is important to be clear, however, that mediation complements and does not substitute other interventions. Neighbour disputes cover a huge variety of circumstances, and these require a range of different available responses.

Sample Cases

The range of neighbour problems dealt with by community mediation services is very wide, and no two cases are alike. The following examples, taken from the case records of Scottish services give an indication of typical situations:

Mrs F and Mrs J had reached the point where communication with each other was impossible and their complaints were directed to the Council.

Mrs F was annoyed by late night noise made by Mrs J's children. She was also concerned that some of Mrs J's friends used drugs and that the children had been playing with a knife in the garden. After mediators visited both parties, they agreed to a face-to-face mediation session.

The mediators asked both Mrs F and Mrs J to take turns to say how things had been from their point of view. Mrs F had an opportunity to voice her concerns and Mrs J was able to explain her position. The mediators acknowledged how difficult it can be to talk about the issues in any dispute, thanking both parties for being so frank and open. They then proposed that both parties move on to discuss how they wished things to be in the future.

Having got over their initial qualms about meeting with each other, both women felt considerably enabled by the process of mediation and seized the opportunity to negotiate a reasonable time limit for late night noise. Further than this, there was an understanding that if this agreement was breached, they could talk to each other about it. Mrs J explained that her daughter needed to listen to music to help her sleep late at night, but agreed to get her a personal stereo. Mrs J also reassured her neighbour that the penknife was taken from the children as soon as she was aware of the situation and that her friend who had smoked hash, no longer visited.

Finally both women decided that their original fallout had been petty and that they could now approach each other to talk about any difficulties that arose.

Mrs G contacted the Mediation Service about her neighbours, Mr and Mrs R who had recently purchased their ex-council house and were in the process of renovating it. She said she had tried approaching the R's about the noise this

was creating late at night, but that Mr R wouldn't listen and just got angry and made more noise. Mr and Mrs G told the mediators that they found Mr R difficult to understand because of his Italian accent, and also felt that the R's were being snobbish because they owned their house and the G's didn't.

With the G's permission the mediators visited Mr and Mrs R. Mr R said that, as he worked during the day, the evenings and weekends were the only time he had available for DIY, although he said he tried to keep the really heavy jobs for during the day at the weekends. He said Mrs G had told him he shouldn't be doing DIY at night which annoyed him, as he could do what he liked in his own home. Although initially apprehensive about meeting up with the G's, mainly because of the fear of a language or cultural barrier, the mediators were able to help the R's to overcome their fears to try and get the situation resolved.

At mediation meeting the mediators helped both sides to voice their concerns. The G's main issue was that they never knew when the noise was going to occur, and that if they asked Mr R for quiet for a specific reason, he was likely to flare up and make even more noise. The R's agreed to give the G's advance warning if they knew they would be doing particularly loud DIY, which would allow the G's to plan around this. The R's also agreed that they would not bang after 9.00pm. The G's would give the R's advance warning if they knew they were expecting guests and the R's would respect this and not make DIY noise on that particular evening. This agreement was written and each party signed their neighbour's copy.

Both sides agreed it was in both their interests for Mr R to finish the renovations as soon as possible.

Why Do Social Housing Providers Need Mediation Services?

The experience of social landlords who have access to community mediation services has been positive in a number of ways, a fact reflected in the decision by several local authorities to build in mediation as an integral part of their overall community safety and anti-social behaviour strategies. In Edinburgh, for instance, the Housing Department routinely refer most low level neighbour nuisance complaints to the local mediation service, and report that the overall number of complaints received by staff has subsequently fallen significantly thus freeing up a substantial amount of staff time.

The function of local authorities in relation to housing is changing, with the landlord-tenant relationship in part giving way to a more strategic role: this has prompted an increase in multi-agency approaches to neighbourhood problems, and the flexibility and versatility of mediation is an invaluable component of such approaches.

Mediation is also increasingly being viewed by the legal system as a tool which should be considered by local authorities in dispute resolution prior to consideration of any formal legal action, as reflected in the guidelines to the Crime + Disorder Act 1998.

The following are some of the benefits social housing providers can expect from the introduction of community mediation services in their area:

- A versatile, speedy and effective option for dealing with conflicts
- A cost-effective way of resolving disputes
- Less recourse to legal remedies
- Less neighbourhood conflict in estates
- Less demand on staff time
- Less of a tenant dependency culture

Where Can I Find Out More?

For information on the location of Community Mediation services in Scotland, and on the wide range of training, support and guidance provided by SCMC contact:

Scottish Community Mediation Centre

23 Dalmeny Street
Edinburgh EH6 8PG
Tel. 0131 624 5400
E-mail infoscmmc@sacro.org.uk

Scottish Mediation Network

18 York Place
Edinburgh EH1 3EP
E-mail admin@scottishmediation.org.uk

Quotes

Night after night it went on. Slow torture. Nothing I said seemed to get across that it wasn't the type of music, or who they were. I just wanted some peace. It was like a prison in my own home.

Neighbour quoted in "Time To Talk" SACRO 1996

I just shook with anger every time it started... I felt as though they were conducting their personal life in my living room.

Neighbour quoted in "Time To Talk" SACRO 1996

All of a sudden everything we did was seen as bad. She never let us alone for a minute, banging on the ceiling, phoning the police whenever the kids cried. She only had to talk to me... She was convinced we were deliberately doing it to annoy her.

Neighbour quoted in "Time To Talk" SACRO 1996

'The work of the project is of inestimable value to the communities it serves... Enabling people to resolve their own problems without having 'solutions' imposed upon them can only improve the general quality of life and will without doubt create a more lasting and harmonious outcome.'

Midge Lamb, Craigmillar Festival Society

'We have been extremely impressed by the creativity and professionalism displayed by the service's staff and by their commitment to good practice in their involvement of volunteers.'

Marion Findlay, Edinburgh Volunteer Exchange

'Mediation it's economical as well as effective. At a time when the Council's resources are severely stretched its use enables Housing Department staff to concentrate on serious breaches of tenancy conditions and to fulfil our recognised landlord role with regard to these... Mediation does not usurp the housing management role; it is complementary to it.'

Mark Turley, Director of Housing -The City of Edinburgh Council

'The Community Mediation process can lead to a radical change in the way communities look at and resolve conflict.'

Pam Speirs, Pilton Central Association

'This is an extremely useful and necessary service for members of all communities – be they white or from ethnic minority background.'

The Saheliya Staff Team

'We can only admire the work undertaken and the results that have occurred due to the work at grass roots level.'

Janice Liddiard, Community Safety Group- Wester Hailes Representative Council

'I'm delighted by this initiative. Aberdeen Community Mediation service will make a significant contribution to alleviating the problem of nuisance neighbours. For many disputes mediation is the best way forward and the aim of assisting 1,000 people is wonderful.'

Elaine Thomson MSP, Aberdeen North

'The best thing is to get people to talk and appreciate other points of view – mediation can have a very positive effect. Eviction for us is a last resort. We know that mediation has had a big impact and can make a big difference to people's lives.'

Robert Hepburn, Assistant Director of Housing - Aberdeen City Council

'The mediators visited me in my own environment which I liked; they made no judgements; there was only one side heard at one time; I was able to unburden myself in my own home where I was more relaxed therefore I was able to communicate more fluently.'

Client of Aberdeen Community Mediation Service

'We feel that since the mediators were involved, our neighbour seems to have settled and hasn't harassed us for a while now. Have had no more hassle from neighbours since mediation.'

Client of Aberdeen Community Mediation Service

'Things are going well between us now. I think we just got off on the wrong foot with each other. Had I known about this service earlier, it would have saved all the animosity piling up. Thank you.'

Client of Aberdeen Community Mediation Service

'Your service took the complaint out of our hands in a very constructive way is to be highly recommended. We are very grateful for your help. Since the mediation session we have all been falling over ourselves in consideration and politeness towards each other! (Eight flat stair mediation).'

Client of Aberdeen Community Mediation Service

'Police Officers spend a great deal of time and effort trying to resolve neighbourly conflict and disputes and are often called upon to attend the same households time and time again. It is of great benefit to the Police and the community to be able to call upon the services of Fife Community Mediation Project to assist in this task. There are numerous examples of fairly desperate situations being resolved once and for all by Mediation and I would fully support and endorse the Project as being extremely worthwhile.'

David Mellor, Assistant Chief Constable- Fife Constabulary

'Mediation is a key part of Fife Council's Housing Anti-social Behaviour Strategy. From the beginning, we wanted a service that was independent of the Council but flexible enough to work within our strategy. Fife Community Mediation has been a valuable partner and their track record clearly demonstrates the success of mediation.'

Alan Russell, Housing Manager (Estate Management and Maintenance)

Fife Council

'After the mediation sessions our communication went from nothing to being able to communicate on a frequent basis.'

Client Of East Lothian Community Mediation Service

'I think this type of course should be recommended to all council staff members.'

'We dealt with a lot of useful ideas – I hope to put a lot of them to use in my professional and private environment.'

'I have thoroughly enjoyed it and would look forward to returning.'

Conflict Management Training Course Participants, East Lothian Community Mediation