

COMMUNITY MEDIATION

CHOOSING A MODEL OF SERVICE DELIVERY

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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.

Sponsored by the Scottish Government

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Introduction

This guide is the second 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.

1. 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.

2. 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.

The first SACRO guide in this series described the valuable role Community Mediation can play as a vital part of housing management strategies and community safety policies: this guide will describe different models of delivering a Community Mediation service and assist social housing providers in selecting the most appropriate model for their particular circumstances.

3. Models Of Service Delivery

As with other forms of social intervention, there are a variety of different models of delivering a Community Mediation service. These models, all of which have been used to a greater or lesser extent in the UK, have been developed for a number of reasons, ranging from ethical considerations to community development principles or in some cases simple pragmatism. Each has its champions and critics, and inevitably each has its own strengths and weaknesses. It is not the purpose of this guide to advocate one or other of these models, but rather to assist in asking the appropriate questions when reaching any decision.

3.1 Independent Community Mediation Service

This model, which is currently the commonest in both Scotland and the UK, involves a service being set up as an independent charity, either in its own right or as part of a larger charitable organisation. The service will have its policy governed by a committee, often consisting of representatives of both community groups and statutory organisations, and will normally utilise a mixture of paid staff and volunteers from the community it takes its referrals from. Referrals are generally taken both direct from the public and from a range of public agencies, and the service will usually be open to clients from all housing tenures. Funding will typically come from local or national government or charitable sources. Although independent services often work to service level agreements or contracts, and have formal referral procedures with local government and other public agencies, there is generally no direct external control over issues of policy or governance.

Advantages

Services are more likely to be seen as neutral by clients and referring agencies

Services can be flexible in response to local needs

There is inbuilt community involvement

Community skills are boosted through the training and involvement of local people

Disadvantages

Funding can be uncertain

There is no direct local authority control over quality and style of service delivery

Examples

Glasgow's Mediation Service, Shetland Community Mediation, Sacro's Community Mediation Services.

3.2 In-House Community Mediation Service

In this model staff are directly employed by the local authority, with the service normally located within the housing department. Mediation is sometimes carried out by staff, sometimes by volunteer mediators recruited from within the community, and sometimes by a mixture of both. The service will operate within and be guided by the authority's management structure and overall priorities. In some cases referrals are taken from clients of all tenures, in others they are restricted to council tenants only. Funding of the service will be direct from the council itself.

Advantages

Funding can be more certain

Staff can be free from fundraising and management issues

There is direct local authority control over quality and style of service delivery

Services can be tailored to overall council strategies

Services can access the resources of other council departments (e.g. personnel, marketing)

Disadvantages

Services are less likely to be seen as neutral by communities, clients and referring agencies

There can be a clash between service priorities and overall council priorities

Access to charitable funding is very restricted

Examples

South Lanarkshire Community Mediation, West Dumbartonshire Community Mediation, Borders Community Mediation

3.3 Training Existing Staff To Be Mediators

Sometimes used as an interim measure by both local authorities and housing associations, this model seeks to train existing staff to become mediators in addition to their other duties.

Advantages

Costs can be minimised

New organisational or departmental structures are not required

Mediation can be more easily integrated into the culture of an agency

Disadvantages

Services are unlikely to be seen as neutral by communities, clients and referring agencies

There can be a clash between an individual's role as mediator and their other role (e.g. housing officer)

There are likely to be competing time priorities

There may be little or no community involvement

Examples

South Ayrshire Community Mediation

3.4 Using Freelance Mediators

This model uses freelance mediators to provide mediation services, usually engaging their services on a case by case basis. Freelance mediation is often provided by individuals or companies operating on a for-profit basis, but is also in some instances provided by independent charitable mediation services. The mediators are directly paid by the agency engaging them, usually a housing provider.

Advantages

Costs can be minimised if mediation is required very infrequently
New organisational or departmental structures are not required

Disadvantages

There is no community involvement
There is no element of community development
There may be little or no local knowledge
Costs can be high if mediation is required more than infrequently
Commercial pressures can affect the quality of service

Examples

East Ayrshire

3.5 Summary Of Models

As already stated, all models have been implemented to a greater or lesser extent, and all are capable of delivering successful services in the right circumstances. In their research paper for the Scottish Office (Resolving Neighbour Disputes Through Mediation In Scotland: Central Research Unit 1999), Jim Dignan and Angela Sorsby stated that the independent model was “most likely to be able to satisfy the exacting requirements of ensuring adequate procedural and ethical safeguards for clients”, and went on to suggest that independent services appeared to be more capable of handling a higher volume of cases: similar conclusions on impartiality were reached by Marian Liebmann in “Community + Neighbour Mediation” (Cavendish 1998). We have seen, however, that this model does have potential disadvantages, and selection of an appropriate model will depend not only on ethical considerations but also practical ones. These will be examined in section 5.

4. Common Requirements

A more important distinction between services than the type of model adopted is the distinction between services which have adequate values and policies and procedures, and those which do not.

4.1 Values + Operating Principles

In their Accreditation Standards for mediation services, the Scottish Community Mediation Network list the following essential values and principles:

- a) Free at point of delivery - the service should not charge individuals for standard mediation services.
- b) Open and accessible to all residents - there should be no discrimination between tenures.
- c) Operating within an appropriate ethical framework - mediators act within Scottish Mediation Network “Guidelines On The Practice Of Mediation”.
- d) Impartial - services should be committed to acting without favour towards or against either party. This will involve a degree of visible independence or autonomy.
- e) Committed to quality and safety of service - services should ensure staff are adequately trained, supported and supervised, the service operates within legal requirements, and all paid mediators are either accredited under the SCMN Mediator Accreditation Scheme or are in the process of seeking accreditation.
- f) Community based - services should have clear, direct links to the community they are working in.

4.2 Policies + Procedures

A detailed discussion of policy issues together with a sample of policies and procedures developed by mediation services is provided in the third guide in this series, “Community Mediation – Ensuring Good Practice”. The following is a brief list of policies and procedures which are essential for all services, regardless of the model adopted:

Governing Document – Is there a written document, formally adopted, which describes the governance and management responsibilities of the service? In the case of independent services, this is likely to be a constitution or Memorandum + Articles Of Association; for in-house services, this may be a recorded committee decision or policy paper; in the case of the use of freelance mediators, there should be a contract or service agreement.

Personnel Policies – Are there adequate policies for recruitment (including job descriptions and specifications), grievance and disciplinary procedures, terms and conditions of employment? If volunteers are used, are there similar documents relevant to them?

Training – Is there a policy on staff and volunteer training, including both initial training and skills development? It is important that training on community mediation is provided by accredited trainers who are themselves experienced community mediators.

Support + Supervision – Do mediators have access to formal supervision and appraisal? Is there a mechanism in place where they can access advice and guidance on issues around casework practice?

Health + Safety – Does the service have a comprehensive policy covering health and safety, including personal safety?

Referrals Policy – Is there a clear mechanism for accepting and processing referrals from agencies and/or individual clients? Are there written guidelines on the types of case likely to be accepted and those which the service is unlikely to accept?

Confidentiality Policy – Is there a clear policy on confidentiality and is it available to clients? Does the policy cover circumstances where confidentiality may be broken (e.g. child abuse, harm to clients, serious crime)?

Case Management System – Is there a process (including a written description of the process) for the administrative and operational management of cases? Are there systems in place for ensuring cases remain “active” until they are closed according to agreed procedures? Are cases classified by type and outcome according to a recognised classification system? Is client and other access to files governed by a policy, which complies with the requirements of the Data Protection Acts?

Monitoring + Evaluation – Are there systems in place for the monitoring of standards of casework, such as client questionnaires or sampling procedures? How does the agency evaluate the standards of its work and measure itself against “best practice” in the field? Does the agency intend to apply for project accreditation by Scottish Community Mediation Network?

Equal Opportunities – Is there an active equal opportunities policy, which is regularly monitored? Are there guidelines for mediators on dealing with prejudice?

Advertising + Marketing – How do the client group and potential referring agencies learn about the service? Are there clear leaflets/posters describing the service? Does the service provide talks/seminars in the community?

5. Assessing Likely Demand

It is clearly problematic to generate detailed estimates for likely demand in areas where there has been no previous service, and to calculate the effects on demand of factors such as local health profiles, unemployment rates and housing conditions (see section 5). Mediation UK, the former national umbrella body for mediation and mediation services recommended that a mediation service should exist in all areas covering a population of 50,000 to 100,000. SACRO's calculation, which is based on the experience of four of their larger Scottish mediation services, is that for services covering all tenures a ratio of one case to every 1264 residents is the average to be expected. This, however, is based on the number of enquiries and cases completed, and not on the total potential demand: mediation services often operate to full capacity and will not always seek to comprehensively advertise their services.

6. Selecting An Appropriate Model

6.1 Assessing Demand

As described in section 4, it is difficult to be precise about factors influencing the likely demand for services. In the same way, the selection of an appropriate model will depend on local factors, which are not always easy to quantify. The following should therefore be seen as a broad aid to analysis rather than as a prescriptive calculation to be followed exactly in every case.

6.2 Population

The first and most obvious factor to be taken into account is the population to be covered by the mediation service. This will point, by the means described in section 4, to the likely number of cases a service will be required to handle, thus giving one indication of the most relevant model. The following is suggested as a starting point in matching demand against service delivery models:

1-10 cases per annum - Freelance mediators

10-50 cases per annum - Training existing staff as mediators

50-100 cases per annum – Small independent or in-house mediation service
(co-ordinator plus one staff member or group of volunteers)

100-200 cases per annum – Medium independent or in-house mediation service
(co-ordinator plus two staff members and group of volunteers)

200+ cases per annum – Large independent or in-house mediation service

(co-ordinator plus three staff members and group of volunteers)

6.3 Socio-Economic Factors

Although neighbour conflict is by no means restricted to the more deprived sections of the population, factors such as unemployment rates, poverty and health require to be taken into account. It is undoubtedly the case that the levels of stress experienced by those suffering from poor socio-economic conditions can in themselves make neighbour disputes more likely to develop and less easy for those experiencing the resulting conflict to resolve successfully: this has been reflected in the experience of Scottish city mediation services who report higher numbers of cases originating from areas of deprivation. We are not aware of any systematic attempt to quantify the effects of deprivation on demand for mediation services, but the experience of Sacro's mediation projects suggests demand can be as much as doubled. Socio-economic factors will therefore require to be taken into account in assessing likely levels of demand, but this is not the only consideration. In areas of deprivation a considerably higher proportion of clients will be council tenants, and of those a significant number may have been in a situation of conflict with the council at some point, through issues such as rent arrears, repairs or transfer lists. This suggests that problems of perception of partiality may be even greater for in-house mediation services in areas with higher levels of deprivation.

6.4 Geographical Factors

Services are considerably easier to deliver efficiently in closely grouped areas of high population density. The problems of delivering a service to more widely scattered populations are those affecting any form of service provision where the service is taken to the client. Both mediator time resources and travel budgets will need to be adjusted to take account of long travel distances and in situations where service areas are predominantly rural and widespread the ratio of cases per mediator will need to be modified. In low population density areas where total population levels are very small, the occasional use of freelance mediators may be the only practical option (although unit costs will be very high): in areas with low density but higher overall population consideration should be given to the training of existing staff or to establishing independent or in-house services which are peripatetic, possibly through the use of sub-offices.

6.5 Community Development Factors

If a council has placed community development as high on its list of priorities, it is likely to want to reflect this in its choice of an appropriate community mediation model. As has been described, neither the model using existing council staff nor the use of freelance mediators has any significant community development potential. Some in-house services, on the other hand, will train and use local volunteers, thus increasing local skills basis. This advantage is also offered by the independent model: independent services in Scotland all use volunteers extensively, as well as engaging with the community in other ways such as involvement in policy direction and joint work with community groups.

6.6 Public Perception/Organisational Openness

A further consideration in the selection of a model must be the signal given to the public by the choice made. An organisational culture of openness and transparency can be furthered by choosing a model, which has some degree of separation and relative autonomy from the organisation itself, whether that model is a fully independent one or an in-house service with measures to ensure a degree of independence of operation.

7. Levels Of Funding

"It is by no means a cost-free option...Nevertheless, mediation is still likely to be cheaper than each of the main legal remedies and cheaper also than transferring a tenant elsewhere." Dignan + Sorsby:"Resolving Neighbour Disputes Through Mediation In Scotland" Scottish Office Central Research Unit 1999

Like any other public service, mediation needs to be properly resourced with adequate staffing levels, administrative back up, premises, and general running costs. A failure to provide an adequate service budget is, in effect, a failure to provide an adequate service. This guide does not attempt to provide any comparative estimate of unit costs: Dignan + Sorsby tentatively suggest that independent services may have lower costs than in-house ones, but the evidence to make accurate comparisons has not yet been collected. In the case of services using existing staff, real costs are likely to be difficult to calculate, and rates for freelance mediators vary considerably. We therefore provide the following as guide costs to give general indications of budget levels for services, although these will vary according to a number of factors such as pay scales, premises rental rates and travel distances. Costs are at 2008/2009 levels and are calculated according to actual service budgets and using NJC local government pay scales and travel rates.

Small independent or in-house mediation service

(co-ordinator plus one staff member or group of volunteers)

Capital (non-recurring) Costs £10000 Annual Budget £85000

Medium independent or in-house mediation service

(co-ordinator plus two staff members and group of volunteers)

Capital (non-recurring) Costs £12000 Annual Budget £140000

Large independent or in-house mediation service

(co-ordinator plus three staff members and group of volunteers)

Capital (non-recurring) Costs £10000 Annual Budget £200000

8. Setting Up A Service

Once a model has been selected there are a number of tasks to be undertaken prior to recruitment or selection of the mediators who will operate the service. These will vary according to the model chosen, and free advice and assistance can be obtained from the Scottish Community Mediation Centre or in some instances from individual services.

Independent service – Recruit local Management Committee and provide support to enable the committee to establish its own governance + policies (if opting for an independent service which will be part of a larger charitable organisation this will not be necessary. Instead a local Advisory Committee can be recruited).

In-house service – Establish management structure and governance together with policies/procedures. If required recruit local Advisory Committee.

Training Existing Staff - Establish management structure and governance together with policies/procedures. If required recruit local Advisory Committee.

Using freelance mediators – Develop tendering procedure including quality control measures, reporting systems and monitoring + evaluation tools.

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

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For information on all forms of mediation in Scotland contact:

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