

# 1 Resolving Neighbourhood Problems Informally



## Community Mediation Guides

These booklets cover a range of issues related to the setting up and running of community mediation services in Scotland, as well as broader issues in community conflict resolution.

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SCOTTISH COMMUNITY  
MEDIATION CENTRE

## Scottish Community Mediation Centre

Sacro  
17 Gayfield Square  
Edinburgh  
EH1 3NX

**tel:** 0131 624 7263

**email:** [infoscmc@sacro.org.uk](mailto:infoscmc@sacro.org.uk)

**web:** [www.scmc.sacro.org.uk](http://www.scmc.sacro.org.uk)

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THE SCOTTISH  
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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 and particularly since the COVID-19 pandemic. The resulting challenge presented to social housing providers and other agencies is considerable. These guides originally formed a part of a broader initiative by Sacro and the then Scottish Executive to assist social housing providers in meeting this challenge.

In recent years, Scotland has seen a revival of community mediation services – several have restarted after years of absence, and so the relevancy and value of these guides continues.

## Scottish Community Mediation Centre

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

SCMC is managed by Sacro and 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 can assist in the resolution of such disputes through a process of skilled and principled intervention. It is a straightforward process, but 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 way forward and understand each other better.
- > 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: mediators are there to offer skilled assistance and support.
- > The dispute is not aired in public – mediation is private, involving only the mediators and the parties to the dispute, and mediators act under a robust code 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 neighbourhood issues, 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 workplace disputes, particularly where conflicts are interpersonal in nature.

> **Young People/Homelessness Mediation**

This assists in situations of threatened or actual homelessness involving young people and their families or guardians.

> **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. 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 accreditation scheme for mediators and mediation services.

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 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, 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.

### 3.1 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), an 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. The COVID-19 pandemic led not only to more people working from home and so experiencing more issues with everyday living in their homes, but – anecdotally – toleration of noise from neighbours decreased at that time.

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 services 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.

### 3.2 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 local 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, Citizens Advice Scotland (CAS) 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.

### 3.3 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:

- Referrals are taken from the police, housing departments, 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.
- 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.
- If face-to-face mediation seems 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 their 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.
- 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 a mediation meeting.
- 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 describe 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.



## 3.4 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 neighbour mediation services have successfully resolved cases where the problem at first sight seemed intractable and had reached a stage where serious violence seemed likely.

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 already 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.

## 3.5 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 almost twenty years of community mediation practice in Scotland show that mediators typically achieve either a significant improvement or complete resolution of issues in 55-60% of all referrals to their service. 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 services suggests

that a substantial majority of mediation agreements are still in place after six months.

These results show mediation to be 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. It is important to be clear, however, that mediation complements and does not substitute other interventions. Neighbour disputes cover a huge variety of circumstances, often requiring a range of different responses.

## 4. Why Do Social Housing Providers Need Mediation Services?

The experience of social landlords who have access to community mediation services has been positive in many ways, resulting in most local authorities building in mediation as an integral part of their community safety and anti-social behaviour strategies. Many 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 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 and 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.

## 5. Sample Cases

The kind of neighbour problems dealt with by community mediation services is extremely varied - no two cases are alike. The following examples are taken from the case records of Scottish services.

### Case 1

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 meeting.

The mediators got 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 encouraged both parties to move on and discuss how they wanted things to be in the future.

Having got over their initial anxieties about meeting face-to-face, both women began to understand the other side of the situation. They were able to negotiate a reasonable time limit for late night noise, and agreed that on occasions where this didn't happen they would talk to each other calmly 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 to use her headphones. 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 been smoking cannabis no longer visited.

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

## Case 2

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, got really angry and deliberately made even more noise. Mrs G told the mediators that she 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 Mrs G didn't.

With Mrs 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 tried to keep the really heavy jobs for daytime. He said Mrs G had told him he shouldn't be doing any DIY at night which annoyed him, as he could do what he liked in his own home. Although initially apprehensive about meeting up with Mrs G, mainly because of the fear of language or cultural barrier, the mediators were able to help the R's to overcome their fears and agree to try and get the situation resolved.

At the meeting the mediators helped both sides voice their concerns. Mrs G's main issue was that she never knew when the noise was going to happen, and that if she ever asked Mr R to temporarily stop for a specific reason, he was likely to flare up and make even more noise. The R's agreed to give Mrs G advance warning if they knew they would be doing particularly loud DIY, allowing her to plan around this. The R's also agreed that they would not carry out work after 9.00pm. Mrs G would give the R's advance warning if she knew she was expecting guests and the R's would respect this. 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.

## Further Information

For further information please contact:

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