



# 6 Helping to Build Positive Communities

## 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.

**sacro**

  
SCOTTISH COMMUNITY  
MEDIATION CENTRE

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THE SCOTTISH  
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## Introduction

This guide is the last in a series of six covering a range of issues related to the setting up and running of community mediation services for the resolution of neighbour disputes. The first five Sacro guides in this series describe the valuable role Community Mediation can play in housing management, models of service delivery, ways of establishing good practice, and measuring service effectiveness, as well as exploring casework strategies: this guide will describe the wider potential community mediation has for assisting in the development of strong, positive communities.

The Sacro guides originally formed a part of a broader initiative by Sacro and the Scottish Executive to assist social housing providers in developing the provision of mediation across Scotland to help in meeting this challenge. All services offered under this initiative are free to local authorities and housing associations/co-operatives, and include the following:

- > Assistance to individual local authorities in identifying appropriate models and levels of delivery for community mediation in their area.
- > Assistance in establishing procedures, service standards and quality control measures.
- > Hosting of regional seminars on community mediation.
- > Provision of training in mediation awareness and mediation skills for local authority and housing association staff.
- > Production of a series of 'Good Practice' manuals on a range of issues relating to community mediation services (e.g. "Choosing A Model Of Service Delivery", "Community Mediation: Ensuring Good Practice").

As a provider of direct mediation services and training and consultancy on community mediation, young persons /homelessness mediation and restorative practice, Sacro is committed to making communities safer by promoting and developing the provision of alternative methods of dispute resolution.

## 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 in the conflict to be able 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 neutral – rather than representing the interests of one party they are there to help both parties reach a mutually agreed settlement.
- > The mediation process gives both parties the opportunity to be fully heard, and to hear - often for the first time - the other side of the story.
- > Mediators do not pass judgement or impose solutions – the parties to a dispute are encouraged to find their own practical solutions, although mediators will assist in exploring issues and in communication. In short, the mediators focus on the process, and the disputants decide the outcome.
- > 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 assist in identifying and resolving the underlying causes of a conflict as well as the symptoms – this means that any agreements reached are more likely to lead to 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. Most services offered by most community mediation organisations are free to individuals.

The use of mediation in the UK is growing rapidly, both in volume of cases and in the number of contexts where it is being applied. The following are some of the main fields of mediation:

**Community Mediation** - community based conflicts such as neighbour or neighbourhood disputes. This is described in more detail in section 3.

**Commercial Mediation** – disputes between companies or between individuals and companies over contracts, services etc.

**Family Mediation** – disputes around the care, custody and access of children where parents are separating.

**Peer Mediation** – school-based conflicts between children.

**Workplace Mediation** – conflicts between individual employees.

**Court Mediation** – particularly in small claims courts here in Scotland.

Mediation is also increasingly being applied in environmental disputes, in the National Health Service, between young homeless people and their families, in organisational complaints procedures, and in a wide range of other situations.

## 2. Community Mediation

Community mediation is now a widespread and well-established tool for neighbourhood 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 has its own code of practice developed by the umbrella body Scottish Mediation (see Appendix 2).

### 2.1 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 department, 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 persuade the other party that it is in their interests to participate.
- > Two mediators then 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.

- 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 will be used. Many disputes are settled at this point, without proceeding to a mediation meeting.
- The mediation meeting follows a set formula, which includes making sure that everyone has their say, and that the real causes of the dispute are discussed. Firstly, an opening statement is made, describing the purpose and structure of the session, and agreeing behavioural ground rules. Both parties will then in turn be given a period of uninterrupted time to state what has been happening, how it is affecting them, and how it feels. Following this, there is an open exchange where the mediator will help to distinguish the real points at issue, find points of agreement and build on them, and finally help to draw up a detailed agreement as to how both sides will act in the future.

### 3. The limits of individual casework

As a tool for intervention in situations of individual conflict, mediation can uncover practical solutions, demonstrate more positive forms of communication, reframe contentious issues into shared problems, and often give disputants a different perspective on the actions of themselves and their immediate neighbours. This in itself will have an impact on the general wellbeing of communities – less individual conflict means more energy is available for other things, as people who are under the immediate pressure of such conflicts are often unlikely to be able to look further than their back fence.

In recent years, however, Scottish community mediation services have increasingly realised that individual casework is only a part of the answer to the incidence of destructive conflict in our communities, and can very often get bogged down in treating the symptoms rather than the causes. For people with little power or status, living in poverty and in poor housing conditions, the problem with their neighbour may be low on their list of priorities, something they can afford to expend only limited energy on. Of course the dispute may exacerbate their other problems considerably, but its resolution is unlikely to remove them. In such situations mediation can play a useful, if limited, role given the opportunity, but it should surprise no one if the disputants are unable to summon the considerable effort involved in constructively resolving the dispute.

There is a further point requiring serious consideration. Some critics of community mediation have accused the process of failing to right injustices by perpetuating the status quo.

In this argument, community mediation is seen as being an instrument by which the oppressed are encouraged to accept situations which should not be tolerated, and to come up with compromises which simply serve to legitimise power imbalances. In the case of council tenants on an estate where the soundproofing is completely inadequate, these critics would hold that to assist neighbours to come to agreement about their respective levels of living noise is not only failing to identify and deal with the real problem, but also hindering any effective action by focussing the issue on the behaviour of the individuals rather than the responsibilities of the landlord. One counter to this argument is, of course, the one previously mentioned - less individual conflict means more energy is available for other things, as people who are under the immediate pressure of unresolved conflicts are often unlikely to be able to look further than their back fence. It can be argued, however, that this only frees community mediation from part of the criticism – as long as mediation focuses exclusively on individual issues, it cannot be said to be assisting in the development of strong, positive and equitable communities.

#### 4. Is Mediation concerned with changing communities?

Should community mediators be assisting in the development of strong, positive and equitable communities? Mediation is sometimes viewed as a completely neutral process, unaffected by either the beliefs of the mediator or those held by the disputants. Similarly, it is sometimes stated to have no interest in or views on the agreements reached by people in conflict, and some mediators hold that consideration of the justice or injustice, equity or inequity of agreements, is an issue solely for the disputants.

This assumption of absolute neutrality is, however, refuted by many mediators within the field of community mediation, and particularly by many organisations in the field. All organisations work within a system of values, whether explicit or implicit, and it is essential for organisations which serve the public to be clear and open about what values they are committed to. In their Practice Standards for mediation services, Mediation UK described a set of values and principles it considers to be essential for any mediation service:

Mediation Services are expected to:

- Ensure and preserve the neutrality of their mediators regarding the objectives and outcomes of all mediation cases.
- Be independent in management and operation or have a strategy to counter the potential influence of a managing or funding agency which might have a stake in the outcomes of specific mediations and threaten the impartial nature of mediation.



- > Maintain a confidential mediation service in line with management policy, procedures and legal obligations.
- > Ensure that all activities are free from unfair discrimination and are governed by principles of equal opportunity, with referral criteria that give equal access to mediation for all who come within that service's remit.
- > Respect and care for all workers, whether paid or voluntary, valuing the contribution of volunteers and not exploiting them.
- > Be accountable to all who have an investment in the service and continually seek to improve the service offered to clients.

It is possible, though, to develop a broader set of organisational values from which clear operating principles can be derived, and several mediation organisations have done so. Sacro's organisational values as stated in its Strategic Plan and elsewhere are as follows:

- > Inclusion (Equality, Diversity and Inclusion).
- > Kindness.
- > Not judging.
- > Empowering people.
- > Respecting people.
- > Inspiring people.
- > Trust.

From these general values a further group of more specific values have been developed for the organisation's mediation services:

- > Positive and non-violent resolution of conflict.
- > Viewing conflict as an opportunity for growth.
- > Minimising unproductive conflict.
- > Promoting outcomes which do not unreasonably favour one party.
- > Believing in everyone's potential to grow and to change.

These more specific values have been used to develop a description of how Sacro views the role of community mediation in communities, and what the parameters are for the ethical use of mediation.

## 5. Sacro Mediation Services

Sacro is committed to helping people resolve conflicts peacefully through the process of mediation. We believe that, with support, everyone has the ability to act positively, learn from situations, and grow as a result of their experience. Mediation provides an opportunity for conflict to be a positive force for change, to help people take more control over their lives, and to take responsibility for their own actions. In order to allow this process to happen, we will treat clients with respect at all times, value diversity in people, and counter prejudice wherever possible.

We believe mediation to be a powerful tool which is applicable in a wide range of settings, and which may have no absolute limits in the intensity or complexity of conflicts it can resolve. We are also committed to the principle that participation in the process of mediation should be based on an informed, voluntary choice by all parties concerned. There are, therefore, situations where we believe it is not ethical to use mediation, and where Sacro services would refer people in conflict to other, more appropriate means of resolution. These are as follows:

- Where participants in mediation have been coerced into taking part.
- Where there is a critical power imbalance between the parties.
- Where participants are not capable of making an informed choice either to participate or to enter into agreements.
- Where there is sustained and intractable prejudice.

For some Community Mediation services at least, then, strengthening and changing communities is central to their aims. This involves working within and seeking to propagate particular ethical frameworks and in this sense the concept of mediator neutrality must be modified. These services would argue that no conflict exists between the following two aims:

- To advocate for the development of more harmonious and equitable communities.
- To assist in the resolution of individual disputes while strictly avoiding advocating for the position of either side.

This position, which can be described as seeking to strengthen self-determination within the bounds of a specific ethical framework, will inevitably lead to major differences between “ethically based” and “neutral” services. This can most clearly be illustrated in the context of racism. Sacro services operate under a policy on prejudice which instructs mediators to behave as follows:

- Conscious, deliberate prejudice - people should be warned that this is unacceptable, and if they persist, you should withdraw from the case.
- Behaviour calculated to incite racial hatred (e.g. distributing racist literature) - this should be reported to the police, as should behaviour such as physical assault, intimidation and harassment.

It is therefore clear that there are limitations to the forms of behaviour that Sacro mediators are prepared to be “neutral” about, and that if these limitations are transgressed, mediators are expected to criticise and even initiate sanctions. For mediators and mediation services who espouse a strictly “neutral” approach, there can presumably be no question of criticism or sanction for either party – the role of the mediator is simply to assist in the achievement of a workable agreement between the party displaying prejudice and the party experiencing it.

This position has inevitably led to criticism that mediation as a form of social intervention simply upholds and condones structural inequalities in society. As community mediation continues to develop, it is likely that these opposing views will take centre-stage. What is apparent, however, is that community development is likely to be of most relevance and interest to mediation services who act within stated ethical frameworks.

## 6. What is Community Development?

Before we go on to examine ways in which mediation can assist communities, it will be helpful to look at some definitions of community development and the underlying principles. The following definition is that of the Community Development Foundation:

Community development is a range of practices dedicated to increasing the strength and effectiveness of community life, improving local conditions, especially for people in disadvantaged situations, and enabling people to participate in public decision-making and to achieve greater long-term control over their circumstances.

Community life means activities undertaken voluntarily by people pursuing common interests, improving shared conditions or representing joint concerns. These activities often take place locally, but may equally happen through different types of common interest, need or identity such as ethnicity, age, gender, faith or any other that people think are important.

What is immediately clear is that, like mediation, community development is crucially and primarily aimed at effecting change. The focus is significantly wider, specifying targets such as improved physical conditions, but there is nothing that many community mediation services would disagree with and much that is shared.

## 7. How Does Community Development Work?

The following is similarly taken from the Community Development Foundation:



### The cycle of change: input, process, output and outcome

As with any other planned activity, community development is a planned process of change, which draws on certain inputs with a view to achieving expected outputs and outcomes. In community development, inputs include the material resources of grants, premises, equipment and people. Less obviously, they also include human resources of energy, motivation, time and commitment. Also the policies of government and other agencies which locate and define the work are significant.

All these inputs may be found within communities, and in the organisations working in or with them. Processes in community development are the ways in which the inputs are used to lead towards outcomes. They may include developing individual and organisational capacity, providing advice and support, encouraging reflection and planning, assessing power relationships and helping develop strategic thinking. Much of this is the bread and butter of community work.

In the ABCD model these processes are summarised as community empowerment. These processes may lead to outputs, such as communities with greater knowledge and skill, resources for childcare, or stronger organisations. These outputs (which can be controlled by the community development agency) can lead to wider outcomes, such as a safer community, or changes in housing policy. Outcomes are not in the direct control of the community development agency, but are part of the vision of a better quality of life which the community has defined. The cycle of input - process - output - outcome can operate on short and long-term timescales.

This diagram above sets out the key relationships in the ABCD model. Along the bottom are the four dimensions of community empowerment which, the model insists must be built into any community development activity, whether with groups of interest and identity, or with communities of place:

- > Personal empowerment, in other words individual learning, knowledge, confidence and skill.
- > Positive action, or specific work to identify and involve groups excluded by poverty, health, race, gender or disability, and to challenge established power structures.
- > Community organisation, which includes general activity in the community, the range, quality and effectiveness of community-based groups and organisations, and the nature and quality of their relationships with each other and the wider world.
- > Participation and influence, through which change in the circumstances of community life are achieved.

In the centre of the diagram are the contexts within which change takes place. Government and local government agencies, as well as companies and parts of the voluntary sector are responsible for policy, management and service delivery in the social, economic and environmental areas. Community development asks them to engage with communities in accordance with the dimensions of community empowerment, in order to work collaboratively towards the outcomes of sustainability, liveability and equitability.

The diagram offers a framework within which all stakeholders in the community development process can locate themselves, and identify the relationships which should be built to achieve change.

## 8. Community Mediation's Contribution

### 8.1 The Four Dimensions of Community Empowerment

Which dimensions of the change process are mediation services best equipped to contribute to? On the face of it, there is potential for contributing to all four dimensions: many community mediation services are, after all, located within disadvantaged communities, use local mediators, have policy shaped by local people, and by the very nature of their work are familiar with the power balances (and imbalances) that operate within these communities. It can be argued, however, that special circumstances pertain here, both due to the specific nature of their area of specialisation and expertise, and in consideration of the way community mediation services require to be viewed by communities if they are to be seen to be capable of acting to intervene ethically in situations of local conflict.

This may particularly be the case in terms of positive action on behalf of groups who lack power or are discriminated against. Activities such as direct campaigning to challenge established power structures and to improve the position of disadvantaged groups are necessary to effect the types of change inherent in community development. Examples would include campaigns against extortionate credit or to improve local disabled access to public buildings, but are likely to be more effectively carried out by groups whose reputation and expertise lie in these areas. Importantly, such groups are also able to conduct these activities without compromising their ability to make mediation interventions such as, where appropriate, mediating between campaigning groups and public authorities.

Similarly, for community mediation services to effect change through participation and influence in the public arena has a potential for jeopardising public perceptions of their ability to mediate between different interest groups or local organisations. It may, for instance, be more appropriate for a local mediation service to assist tenants in identifying lack of adequate soundproofing as a cause of stress and conflict than to openly pressurise a local social landlord into effective measures.

It can be argued, then, that the most appropriate dimensions of community empowerment for community mediation services to focus their energy on are personal empowerment and community organisation.

## 8.2 Personal Empowerment

Community mediation is, of course, frequently described by its proponents as being primarily concerned with personal empowerment. The following quotes from users of East Lothian Community Mediation Service are not unusual:

*“I found that having mediators involved and facing my neighbour gave me the confidence to say exactly what I felt.”*

*“The mediator made me feel like an individual and made me feel comfortable about myself.”*

Mediators are divided about whether the main purpose of mediation interventions should be to assist clients in reaching solutions (the resolution model) or to assist clients to transform their way of thinking about conflict (the transformative model). Supporters of both models, however, agree that going through the mediation process often prompts personal change, and will readily quote examples. A quantification of the extent and the nature of this change is a possible future research topic of great potential value.

There are other ways in which mediation services can assist to empower individuals within communities. As has already been stated, many services train local people to act as mediators; this training is intensive and typically involves trainees examining their values/ethical base and undertaking a number of exercises aimed at boosting self-confidence and awareness. This training has also been adapted by services to run open training events for local people on dealing with conflict in their own lives.

## 8.3 Community Organisation

Broader development in the community can also be effectively assisted by community mediation services, through working with local organisations to reduce unproductive conflict and increase co-operative working. Mediation is increasingly being used in Scotland to assist organisations and groups within the community in the resolution of conflicts both internally and externally driven. The following are a small number of examples of this type of work:

- Assistance to resolve a conflict between a traveller community and a local authority.
- Assistance to repair relationships between a sexual health support group and its clients.
- Assistance to resolve conflict between younger families and older residents in a housing estate.
- Assistance to repair internal divisions within a community school.
- Assistance to resolve issues between an entertainment promoter and a residents' association.

As not-for-profit organisations continue to play an important part in public life and decision-making, and particularly in service provision, there is clearly considerable scope for growth in this area of activity. An example of the prominence currently being given to this area is the establishment in England and Wales of a mediation scheme specifically aimed at assisting charities in dispute, administered by the National Council for Voluntary Organisations.

## 9. Possible Areas of Activity

### 9.1 General

Below are listed some of the areas where community mediation services who have an interest in community development should consider developing initiatives. It is by no means an exhaustive list and it is recognised that, for services to engage with any of these interventions, both resources and training may be required – contact Sacro’s Scottish Community Mediation Centre for assistance and further contacts.

### 9.2 Personal Empowerment (work with individuals)

- > Direct training of local people in general conflict resolution skills.
- > Direct training of local people in community mediation.
- > Collaboration with local further education establishments in establishing conflict resolution courses, including distance learning packages and evening classes.
- > Input on conflict resolution skills in local school curriculums.
- > Articles in local media on conflict resolution in everyday life.
- > Local advertising campaign on the benefits of constructive conflict resolution.
- > Provision of resource packs for adults on strategies/resources to deal constructively with interpersonal conflict.
- > Provision of resource packs for schoolchildren on strategies/resources to deal constructively with interpersonal conflict.
- > Training of representatives of public agencies to increase ability to intervene and defuse potentially destructive conflict situations (e.g. community wardens, community workers, leisure centre staff).
- > Collaboration with police in providing “quick track” conflict resolution service where enforcement is not appropriate (e.g. street mediation service).



## 9.3 Community Organisation (work with groups)

- > General “group mediation” service to groups/organisations in the community (both statutory and non-statutory) who are experiencing conflict between each other.
- > General “group mediation” service to groups/organisations in the community (both statutory and non-statutory) who are experiencing internal conflict.
- > Short training programmes for committees/boards etc on constructive conflict resolution in group/organisational settings.
- > Collaboration with other relevant local agencies (e.g. Community Education, Councils for Voluntary Organisations, Tenants Federations, Councils for Racial Equality) in devising community capacity building strategies and structures for collaborative community decision making.
- > Input into local authority and other statutory planning procedures e.g. Community Planning/Community Safety strategies.
- > Engaging in proactive work in the community (including arts-based approaches) to increase understanding between groups (e.g. intergenerational, interfaith, interracial).

## 10. Future Developments?

It is clear from all of the above that community mediation services have at least a potential role in the wider development of communities, particularly in terms of personal empowerment and community organisation, and that such activity is likely to be congruent with the ethics and values of many services. Indeed, it has also been argued that community mediation services who target their activities solely on resolution of individual conflicts may in effect be perpetuating or even strengthening structural injustices.

Many services already play a wider role in their communities, and recent trends in partnership working and inter-agency initiatives are likely to further encourage such developmental perspectives. Some possible short to medium term possibilities have already been listed above, but what is the longer-term future for community mediation services in terms of community development? Two distinct and divergent futures can be anticipated:

- Community mediation services will routinely be used as a specialist resource for communities and community agencies, called in to use their professional skills to help resolve conflicts and promote positive conflict resolution in all walks of life.
- As community mediation and conflict resolution skills spread within the community and conflict resolution becomes a basic social skill, taught in schools and elsewhere, the services of professional mediators will become less and less necessary for communities.

This tension is, of course, one which is to some extent present for any activity with a primarily developmental or educative aim, and the second outcome is clearly an ideal one in terms of community development aims and principles. This, however, is the very long perspective, and in the meantime community mediation services should be encouraged to widen the scope of their community interventions as far as possible, and local communities should be encouraged to maximise their use of them.

# Appendix 1: Code of Practice for Mediation in Scotland

*Adopted by the Board of the Scottish Mediation Network on 19.11.08*

## Preamble

This Code is intended to form a baseline for the conduct of all forms of mediation in Scotland. It is expected that the different strands of mediation will, if they have not already done so, develop complementary and more detailed guidance.

## Definition of mediation

Mediation is a process in which disputing parties seek to build agreement and/or improve understanding with the assistance of a trained mediator acting as an impartial third party. Mediation is voluntary and aims to offer the disputing parties the opportunity to be fully heard, to hear each other's perspectives and to decide how to resolve their dispute themselves.

## Voluntary participation and self determination

A mediator shall recognise that mediation is based on the principle of voluntary participation and that it is the parties, rather than the mediator, who determine the outcome.

Impartiality and independence A mediator shall remain impartial and independent. If a mediator becomes aware of any reason which may diminish their impartiality or independence, they shall disclose this to the parties at the earliest opportunity and withdraw from the mediation unless the parties do not wish them to do so.

## Conflicts of Interest

A mediator shall disclose all actual and potential conflicts of interest reasonably known to the mediator whether before or during a mediation and shall withdraw from the mediation unless the parties do not wish him/her to do so.

## Competence

A mediator shall be responsible for undertaking sufficient training, supervision and continuing professional development to maintain necessary mediation skills. A mediator shall mediate only when she/he believes that he/she has the necessary skills to carry out the mediation.

## Confidentiality

Confidentiality in mediation is important to encourage all participants to speak truthfully and candidly, and to enable a full exploration of issues in dispute. Unless compelled by law, or with the consent of all the parties, a mediator shall not disclose any of the information given during the mediation process.

## Understanding of mediation

A mediator shall ensure that the parties understand:

- > the purpose and procedure of the mediation;
- > the role of the parties and the mediator;
- > any fee arrangement;
- > the obligation of confidentiality.

## Advertising and solicitation

In advertising or offering services, mediators shall not guarantee settlement or promise specific results. All information provided by mediators about their education, background, mediation training and experience shall be accurate.

## Gifts and favours

A mediator must not accept from or exchange any gift or favour with any party in any mediation. A mediator must use judgement that reflects the high ethical standards which mediation requires.

## Discrimination

People should always be treated with respect and without discrimination.

## Complaints and Professional Indemnity Insurance

A mediator shall provide information about the process for handling any complaint made about their conduct or service, and about any professional indemnity insurance cover they may have.

## Further Information

For further information please contact:

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SCMC trainers have delivered mediation skills training since 2000. The Centre, which is managed by Sacro, has provided services to a wide range of international, national and local government agencies as well as other bodies such as charities, social housing providers, police and Ombudsmen.