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Review of use of Mediation Services by Local Authorities and Housing Associations

December 2006

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Review of Use of Mediation Services by Local Authorities and Housing Associations

Final Report

14 December 2006

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Review of use of mediation services by Local Authorities and Housing Associations

Executive Summary

The Department for Environment, Food, and Rural Affairs (Defra) is preparing a Neighbourhood Noise Strategy that will be ready for consultation by the end of 2007. An important first step in developing this strategy is to examine how the existing methods of dealing with neighbourhood noise are put into practice.

In 2005 Defra let a research contract to review the use of noise abatement notices by Local Authorities (under the Environmental Protection Act 1990) and alternative methods of controlling neighbourhood noise. One of the alternative methods considered was Mediation.

Mediation is a process for resolving disagreements in which an impartial third party (the mediator) helps people in a dispute to find a mutually acceptable resolution. The use of Mediation is not confined to resolving disputes between two individuals, but can be employed in a range of situations including those where one or more parties is a commercial organisation or a public body. However, in the context of the National Noise Strategy its application to neighbour disputes is particularly relevant.

The previous study found that amongst bodies that referred disputes to mediation, the highest percentages of referrals were from Local Authority Housing Departments and Housing Associations¹.

Defra therefore commissioned this study into the use of mediation services by Local Authorities and Housing Associations to supplement the study on noise abatement notices.

The study reviewed the types of services available, who provides them, and their effectiveness in terms of results and costs compared to other methods available to landlords for controlling noise from tenants.

Information was gathered using a combination of methods: questionnaires, telephone discussions, and meetings with housing professionals and mediators.

The study found wide variation in the experience of users as to the benefits of mediation in the context of neighbour noise disputes. Concerns were expressed in relation to the cost, and outcomes, and the lack of engagement by the mediators to the referring body. However, other users reported up to a 100% 'success rate' and wished to extend the availability of the provision of mediation services. There was also evidence that some mediation providers provided regular updates to referrers on the progress and outcome of cases while not compromising client confidentiality.

¹ Data from Mediation UK.

Some providers trained staff of the referring body to assess the suitability of cases for mediation. This 'screening' process was among the highest rated measures by both users and providers for improving the resolution of cases. The highest rated measure was using mediation at an early stage of the dispute.

Proposals for improving the take up of mediation and improving its overall effectiveness included awareness campaigns to explain both the benefits and purpose of mediation. In particular, disputants need reassurance that the process does not necessarily require them to meet the other party face-to-face.

The assessment of costs and hence cost-effectiveness was hampered by the lack of data from many of the bodies consulted, but from the limited data available the average cost per case of mediation was £334 (users' data) and £488 (providers' data). Information on the cost of other measures was also limited but the average cost of informal methods was £224 per case. It is not known whether in-house resources might be expended without a resolution before a case is referred to mediation (and hence be an additional cost), nor whether the cases resolved by mediation could have been resolved by informal methods.

There was insufficient information available to make a robust assessment of the cost-benefit of mediation as opposed to other measures available to deal with neighbour noise disputes.

It is recommended that the following actions would improve the take up and effectiveness of mediation :

- Spread good practice amongst mediation service providers
- Improve (cost) data recording amongst referring bodies
- Increase the awareness and understanding of mediation among referring bodies and the public
- Ensure that referring bodies are trained to assess the suitability of cases for mediation
- Promote the early referral of (suitable) cases for mediation
- Ensure that the referring body introduces the topic of mediation in an appropriate manner

In addition, methods of providing more stable funding to service providers should be explored.

During the course of the study Mediation UK ceased to operate and so alternative means of engaging with mediation service providers needs to be reviewed. One possibility might be to utilise existing regional networks.

In Scotland mediation services are currently provided for each of the 32 LA areas, and a body (Sacro) has been funded to devise and support a central data collection system for the numbers of referrals etc. Further dialogue with Sacro and other relevant bodies in Scotland would assist in determining the cost and approach required in setting up and supporting such a system for the rest of the UK.

Consultation would also be required with relevant bodies in England to determine how such a system might be established in England if it was desired to do so.

**DEFRA CONTRACT NANR 197
REVIEW OF USE OF MEDIATION SERVICES
BY LOCAL AUTHORITIES AND HOUSING ASSOCIATIONS**

FINAL REPORT – 14 December 2006

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I INTRODUCTION

I.1 Background and Purpose

- I.1.1 The Department for Environment, Food, and Rural Affairs (Defra) is preparing a Neighbourhood Noise Strategy that will be ready for consultation by the end of 2007. An important first step in developing this strategy is to examine how the existing methods of dealing with neighbourhood noise are put into practice.
- I.1.2 In 2005, Defra commissioned a study on the use by Local Authorities of noise abatement notices under the Environmental Protection Act². That study also considered alternative methods for reducing noise, one of which was the use of Mediation.
- I.1.3 The study on noise abatement notices found little evidence of the widespread use of mediation by Environmental Health Departments. This was consistent with data from Mediation UK which showed that in the previous 12 months 29% of referrals to their members were from Housing Departments, 12% from Housing Associations, 8% from the police, and 4% from Environmental Health Departments.
- I.1.4 To supplement that study, Defra commissioned this study on the use of Mediation Services in the UK by Local Authorities and Housing Associations, to provide further information on the use of mediation by Local Authorities and Housing Associations for the emerging National Noise Strategy.
- I.1.5 Mediation is a process for resolving disagreements in which an impartial third party (the mediator) helps people in a dispute to find a mutually acceptable resolution. Local Authorities and Housing Associations may either have in-house mediation services or use external mediation services, for resolving such things as noise complaints between neighbours, as well as a whole range of other issues.
- I.1.6 Mediation is generally believed to be more cost effective and quicker than going to court, which might be necessary in the case of statutory nuisance complaints. It is also an excellent preventative tool and can be used effectively to stop problems escalating and becoming worse ie before they become a formal/statutory complaint.
- I.1.7 The study surveyed the types of mediation service that currently exist and are available, in order to evaluate how they are used, their effectiveness, cost-effectiveness, frequency and point of take-up, results, and availability.
- I.1.8 The primary interest was on cases in which noise was the cause of the dispute³ or problem, regardless of whether or not the existence of a statutory nuisance was established.

² NANR 161. Review of the use of Noise Abatement Notices under Section 80 of the Environmental Protection Act 1990. Final Report, 3 May 2006. Rupert Taylor FIOA.

<http://www.defra.gov.uk/environment/noise/research/abatement/index.htm>

³ In this context, the stated cause of the dispute/complaint is termed the 'presenting issue'. See Glossary.

1.2 Scope and approach to study

1.2.1 The study was interested in the following aspects of the use and operation of Mediation Services:

- **Types of service** who runs them
- **How are they used** Service Level Agreement (SLA) or ad hoc referrals
- **Availability** by geographic distribution, and type of tenure
- **Frequency of use** in absolute terms, and in comparison to other options
- **Effectiveness** and how is this assessed
- **Costs** of running a service, of SLA, of ad hoc referrals
- **Cost-effectiveness** costs and effectiveness of other options
- **Point of take-up/referral** at outset or after use of other options

1.2.2 The information for the study was obtained from housing officers and managers employed by Local Authorities and Housing Associations⁴, but input was also obtained from others working the housing field eg Chartered Institute of Housing (CIH) and the National Housing Federation (NHF).

1.2.3 Most of the information required for the study originates with Local Authorities and Housing Associations. However, Defra was concerned not to overburden these groups with survey requests. The approach adopted was therefore to combine some statistics gathering with interactive meetings of relevant groups. For example, the Housing Management Practitioner Groups of the NHF and other regionally-based groups. Members of these groups meet regularly to discuss and debate current topics in their and so attendance at these meetings enabled housing professionals to contribute their views and experience to the study.

1.2.4 Finally, other relevant bodies (eg Mediation UK) were contacted to determine whether they held any views or information that would assist the study.

⁴ See Paragraph 2.2 *et sequi* for an explanation of the current terminology used to describe Housing Associations and other landlords.

2 OVERVIEW OF MEDIATION SERVICES AND RELEVANT BODIES

2.1 Definition, Applications, Types of Mediation, and Mediation Providers

- 2.1.1 Mediation is one of a number of methods for resolving disputes between parties, be they neighbours, commercial enterprises, or public or private bodies. It is necessary therefore to confirm the use of the term in the context of this study.
- 2.1.2 The term Alternative Dispute Resolution (ADR) encompasses Mediation along with Arbitration and other methods in which the dispute is (ideally) resolved other than by strict legal means⁵. However, within this range of approaches there are major differences of principle, the clearest being between Arbitration and other methods.
- 2.1.3 In an arbitration, the process will generally be directed by the arbitrator. The objective of the process is to decide in favour of one of the parties to the dispute; and the parties would normally have agreed that the decision is legally binding. Mediation aims to assist the parties to reach an agreement between themselves to resolve the dispute. This permits a wider range of solutions than finding wholly in favour of one or other of the parties; however, the agreement is likely to be voluntary. A further contrast is the role of the Mediator, who will not normally take such a directing role as an Arbitrator would.
- 2.1.4 Unfortunately, although this simple contrast between Mediation and Arbitration can be made, the differences between Mediation and other ADR techniques is not always so clear, and even between services described as Mediation, there are differences in style and the approach used.
- 2.1.5 The principal confusion is between Mediation and Conciliation. There is some overlap in the methods that can fall within these terms, though Gray reports that the Arbitration, Conciliation and Advisory Service (ACAS) regards them as separate processes⁶. He suggests that a disadvantage of the existence of the two terms appears to be in relation to Government funding opportunities⁷. Government ADR schemes use the term Conciliation (eg NHS schemes and the Disability Conciliation Service provided to the Disability Rights Commission⁸). This might preclude Mediation Services from Government funding opportunities unless they change the description of what they offer.
- 2.1.6 Mediation can be applied in many dispute/conflict situations. Examples from the Mediation UK website⁹ include Family, Schools, Workplace, Victim-Offender, as well as Neighbour.

⁵ Other methods include Conciliation and Ombudsmen Schemes.

⁶ See, *Responding to Community Conflict: A Review of Neighbourhood Mediation*. John Gray, published by author. Copies of the book from York Publishing Services.

⁷ *Op cit*.

⁸ The DRC is an independent executive non-departmental public body funded by the Secretary of State. Responsibility for disability issues was transferred to the Department of Education and Employment in 1997.

⁹ <http://www.mediationuk.org.uk> Although Mediation UK is no longer operating, at the time of writing (December 2006) the website is still functioning and can be used to locate local mediation services.

- 2.1.7 There are different approaches to Mediation both in terms of the logistics and the philosophy. The main operational distinction is between ‘Shuttle’ and ‘Face-to-Face’ mediation. Shuttle Mediation usually implies separate contact by the mediator with the parties in contrast to Face-to-Face mediation in which a joint meeting is held at some stage in the process. However, Gray¹⁰ found that the term Shuttle Mediation was used to describe at least three different types of Mediation and it might include processes in which the process was initiated with separate meetings, but need not preclude a joint meeting at a later stage. Some services use the expressions direct (ie joint meetings) and indirect (ie no face-to-face meetings between the parties) instead of shuttle and face-to-face¹¹.
- 2.1.8 The Mediator’s role is not consistently defined. It is a common factor that the mediator is independent, however the extent to which (s)he leads or controls the mediation can vary. One definition is that the Mediator controls the process but the parties control the content. Thus mediators would not normally make suggestions as to the content of an emerging agreement.
- 2.1.9 Finally, it needs to be understood that the providers of mediation services have different funding arrangements and staffing structures. Possible funding methods include:
- Service within a Local Authority
 - Service within a Housing Association
 - Service within an Arms’ Length Management Organisation (ALMO)
 - Independent with Service Level Agreement(s) (SLAs) with one or more of the above
 - Independent, and grant supported
 - Constituted not-for-profit
 - Service operated as a business
- 2.1.10 Services require some paid staff, but many services use trained volunteers as mediators. Services that operate as businesses might use freelance (trained) mediators as necessary to supplement resources from core staff. Some mediators operate as individuals.

2.2 Types of landlord

- 2.2.1 The scope of this study includes reviewing the use of Mediation Services by Housing Associations (HAs) and Local Authorities (LAs).
- 2.2.2 Housing Associations are defined in the Housing Associations Act 1985 and are essentially bodies that do not trade for profit while providing and/or managing housing. They were required to be registered with the Housing Corporation, a statutory body set up to regulate Housing Associations.

¹⁰ *Op cit.* For a fuller explanation, see Chapter 3, p29 *et sequi.*

¹¹ Sacro (see Glossary) uses the terms ‘mediation meeting’ and ‘shuttle’.

- 2.2.3 The Housing Act 1996 created a new type of body – Registered Social Landlords (RSLs) – and set out criteria for their registration with the Housing Corporation. The 1996 Act also provided that all Housing Associations registered as such at the time the defining section in that Act came into force, would become a Registered Social Landlord (RSL). New Housing Associations must go through a registration process to become RSLs.
- 2.2.4 Other types of landlord that are not part of the local authority are Housing Trusts (HTs), Housing Action Trusts (HATs)¹² and Large Scale Voluntary Transfer organisations (LSVTs). For the purposes of this study they are not distinguished from each other but further information about them is provided in the Glossary.
- 2.2.5 The second group of landlords specified for review in the study was Local Authorities. However, there are other bodies associated with local authority housing.
- 2.2.6 One of these kinds – Arms’ Length Management Organisations (ALMOs) – has arisen as a result of Local Authorities retaining ownership of their housing stock but outsourcing its management to private company. A second kind is Tenant Management Organisations (TMOs), and the third kind consists of bodies managing housing as part of a PFI scheme¹³.
- 2.2.7 The ODPM consulted late last year on enabling LAs to contract out some or all of their functions in relation to ASBOs to other organisations including the above¹⁴. As at June 2006, these powers have not been given effect.
- 2.2.8 Finally, the study was interested in the experience of any Environmental Health Departments that made use of mediation.

2.3 Powers available to deal with neighbour disputes

- 2.3.1 The legal powers available to LAs and other social landlords for dealing with Anti-social behaviour (which includes noise) are set out in **Table 1**. The main elements of these powers are described in **Table 2**. Landlords and managers can also use Mediation Services or informal methods involving their own staff¹⁵.
- 2.3.2 Note that the Local Authority (through their Environmental Health Department) enforces the Environmental Protection Act (EPA). Consequently, to take action specifically in respect of a statutory nuisance, non-LA landlords must refer the matter to the relevant LA for them to deal with either using their own resources, or in conjunction with the referring body’s own staff.

¹² HATs have some of the powers usually associated with a LA. Their tenants are regarded as being in the public sector.

¹³ See Glossary.

¹⁴ The Serious Organised Crime and Police Act 2005 inserted Section 1F into the Crime and Disorder Act 1998. The new section enables local authorities to arrange for other bodies (defined in an Order made by the Secretary of State) to exercise some or all of their ASBO functions.

¹⁵ In this report, informal methods are not regarded as ‘mediation’ though in-house services using trained mediators are.

Table 1 Legal Powers of landlords to deal with anti-social behaviour

Power	Basis	Available to
ABC ¹ ASBO	(Crime and Disorder Act 1998) ¹ Crime and Disorder Act 1998 Amndd by Police Reform Act 2002	Crime and Disorder Partnerships LAs and RSLs only
Introductory/Starter Tenancy	Housing Acts 1996 and 2004	LAs, HATs ² , and SLs ³
Demoted tenancy	Anti-social Behaviour Act 2003	LAs, RSLs, and HATs ²
Notice Seeking Possession	Anti-social Behaviour Act 2003	LAs, RSLs, and HATs ²
Injunction	Anti-social Behaviour Act 2003	(LAs ⁴), RSLs, and HATs ²
Possession/Eviction	Anti-social Behaviour Act 2003	LAs, RSLs, and HATs ²
Noise Abatement Notice	Environmental Protection Act 1990	Power resides with LA
Notes	1 Not legally enforceable but included here for convenience 2 Housing Action Trusts 3 Social Landlords 4 LAs have powers under other legislation pre-dating this Act 5 The Anti-social Behaviour Act 2003 amended several earlier Housing Acts	

Table 2 Principal aspects of landlords' powers in Table 1

Power	Principal aspects
ABC	An ABC is a written agreement between a person who has been involved in antisocial behaviour and one or more local agencies whose role it is to prevent such behaviour. ABCs are most commonly used for young people (not less than 10 years old) but may also be used for adults. Although it is not legally enforceable, evidence of breach can be used in an application for an ASBO.
ASBO	A civil order that can be made against anyone aged 10 years or more. It is independent of the type of tenure (ie not only those in social housing). LAs can apply in relation to anti-social behaviour anywhere in their area. RSLs can apply if the behaviour relates to premises for which they are responsible, by persons who are (likely to be) on or in the vicinity of such premises.
Introductory tenancy	Introductory tenancies are only available to LAs and permit them to evict within the first 12 months without having to show any grounds for possession.
Starter tenancy	Starter tenancies are a similar provision for RSLs to Introductory tenancies for LAs, whereby grounds for eviction are those for a standard short-hold tenancy. The point is that these forms of tenancy are less secure than normal forms of tenure from these landlords
Demoted tenancy	These end a previously secure form of tenure and replace it with a type that has fewer benefits (eg loss of right-to-buy or exchange) for 12 months. If the landlord applies for a possession order, the court is only concerned with the procedures followed, and does not inquire as to the facts or merits. This course of action is available to RSLs during the first 6 months, and to LAs and HATs for all 12 months of the demoted tenancy.

Power	Principal aspects
Notice Seeking Possession	Must be given 28 days before an application to the court for a possession order. However, the landlord can apply to the court up to 12 months after serving the notice if the tenant continues to breach the terms of the tenancy.
Injunction	This is not only available in relation to the behaviour of tenants in the rented premises. It can also extend to anti-social behaviour by others, elsewhere, if it relates to the landlord's management of their premises. A power of arrest can be attached in certain circumstances (eg significant risk of harm).
Possession/Eviction	The grounds for possession include: behaviour likely to cause nuisance, anti-social behaviour in the locality of the tenant's property, the anti-social behaviour of visitors to the property, and conviction for an arrestable offence in the vicinity of the property.

2.3.3 Noise Abatement Notices differ from the other powers in that they are not directly related to either housing law or anti-social behaviour initiatives. If an LA is satisfied that a statutory (noise) nuisance exists it has a duty under the EPA to serve a notice on the person responsible, subject to a power to delay service by up to a week in circumstances set out in the Clean Neighbourhoods and Environment Act 2005.

2.4 Relevant bodies

2.4.1 Relevant organisations in the fields of housing, anti-social behaviour, and mediation are listed in **Table 3**, which includes a brief description of their status and purpose (see also the Glossary).

Table 3 Organisations associated with housing, anti-social behaviour, and mediation

Body	Status, Aims, Functions
The Housing Corporation http://www.housingcorp.gov.uk/	The Housing Corporation is the national Government agency that funds new affordable housing and regulates housing associations in England.
Chartered Institute of Housing http://www.cih.org/	The Chartered Institute of Housing (CIH) is the professional organisation for people who work in housing. The CIH is a registered charity and a non-profit making organisation. It has over 19,000 members who work predominantly in local authorities, housing associations and the private sector in the UK and Asian Pacific.
National Housing Federation http://www.housing.org.uk/	The National Housing Federation represents 1400 independent, not-for-profit housing associations in England and is the voice of affordable housing. Its members provide 2 million affordable homes for 5 million people. The aim of the National Housing Federation is to support and promote the work that housing associations do and campaign for better housing and neighbourhoods.

Body	Status, Aims, Functions
Housemark http://www.housemark.co.uk/	HouseMark is a joint venture by the Chartered Institute of Housing (CIH) and the National Housing Federation (NHF), two not for profit organisations dedicated to improving housing standards. It works for, and with, the social housing sector to improve performance and efficiency. It has over 520 member organisations and also works closely with the Housing Corporation, ODPM, Audit Commission Housing Inspectorate, WFHA, IDeA, the National Federation of ALMOs and other key organisations helping local authorities, ALMOs and housing associations to improve service delivery.
National Federation of ALMOs http://www.almos.org.uk/	The NFA is the representative trade body for arm's-length management organisations (ALMOs). Its primary objective is to promote the ALMO option, and assist existing and prospective ALMOs to operate effectively. Membership is open to ALMOs and local authorities interested in exploring the ALMO option. The NFA aims to secure a long-term financial future for ALMOs, persuade central government to take account of the interests of ALMOs, and establish a vibrant and innovative independent ALMO sector that will provide decent homes, raise standards across the public rented housing sector, achieve excellence in service provision, promote tenant empowerment, and help to deliver broader national and local policy priorities.
Social Landlords' Crime and Nuisance Group http://www.slcng.org.uk/	The Social Landlords Crime And Nuisance Group (SLCNG) is the leading housing-based group focusing on nuisance and anti-social behaviour. The group grew from a housing conference in 1995 where a method for sharing ideas and lobbying on nuisance and anti-social behaviour was identified. The local authority working group on anti-social behaviour was then formed, with a core group of 20 members and an administrator appointed to recruit affiliate members. Originally the lobbying element was achieved with the assistance of the local government association. The SLCNG has a membership of more than 200 local authorities, registered social landlords and tenant groups and represents over 2.6 million tenancies. The group has strong links with the local government association, National Housing Federation and the Chartered Institute of Housing.
G-15 http://www.g15.org.uk/	The G15 is a group of London housing associations. They are independent social businesses that work by ploughing their profits back into building new homes, improving their existing housing stock, and developing and delivering services to their residents and neighbourhoods. They are neither part of the state nor the private sector but blend the values and skills of both.
Mediation UK http://www.mediationuk.org.uk/ Note that during the preparation of this report Mediation UK ceased operating	Mediation UK is a national voluntary organisation dedicated to developing constructive means of resolving conflicts in communities. It works to promote constructive ways of resolving conflict within communities, and seeks to ensure that everyone has access to high quality mediation and that the principles and practice of mediation are supported by decision makers and the public, making mediation the first choice method of resolving conflicts. Mediation UK is a membership organisation that supports and represents community mediation. As an umbrella body, it provides services for over 400 members and co-ordinate and supports the work of Mediation Wales, the Scottish Mediation Network, and the Disability Conciliation Service.

Body	Status, Aims, Functions
<p>ADRNow http://www.adrnow.org.uk/</p>	<p>The Advice Services Alliance (ASA) was established in 1980, and is the umbrella organisation for independent advice services in the UK. Membership of ASA is open to national networks of independent, not-for-profit advice services in the UK. Other organisations concerned with the provision of advice and legal services may affiliate to ASA as associate members.</p> <p>The aim of their website is to provide independent information about a wide range of ADR options, so that advisers and the general public can make an informed decision about how best to resolve a dispute. They do not provide a mediation or ADR service themselves.</p>
<p>The Scottish Mediation Network (SMN) http://www.scottishmediation.org.uk/index.asp</p>	<p>The SMN aims to put mediation into the mainstream as a widely available and clearly understood option for resolving disputes of all kinds in Scotland by:</p> <p>Establishing an accessible and well-known single additional contact point for mediators and the public</p> <p>Assisting policy makers, the public, funders, and the media to become better informed about mediation and its benefits.</p> <p>Promoting stronger links among different fields of mediation in Scotland.</p> <p>Encouraging and assisting mediation initiatives such as the development of programmes for young people and building consensus on quality standards for mediators and mediation services.</p>
<p>Sacro, Safeguarding Communities - Reducing Offending http://www.sacro.org.uk/</p>	<p>Sacro aims to promote community safety across Scotland through providing high quality services to reduce conflict and offending. Sacro is committed to developing new and innovative ways of working and influencing the development of Government policies and of legislation. It provides services in conflict resolution, criminal justice and youth justice based on the values of mutual respect, recognising and valuing diversity, personal responsibility, society's responsibility to all its members, capacity for change and to work together to reduce conflict and repair harm. Sacro also provides consultancy and training services, currently in community mediation and restorative justice.</p>

2.5 Government initiatives and support

2.5.1 A number of Government departments have a role in housing and/or methods for dealing with anti-social behaviour. The Government website, direct.gov.uk, lists noisy neighbours as one of the forms of anti-social behaviour¹⁶. The departments involved include the ODPM (now the Department for Communities and Local Government – DCLG) and the Home Office. Arising from this, there are several Government supported websites providing information; some of these stand outside the main departmental sites.

2.5.2 Information on measures to tackle anti-social behaviour can be found at the websites in **Table 4**.

¹⁶http://www.direct.gov.uk/CrimeJusticeAndTheLaw/CrimePrevention/CrimePreventionArticles/fs/en?CONTENT_ID=4001652&chk=NAFg8m

Table 4 Government websites relating to anti-social behaviour

Website address	Description
http://www.homeoffice.gov.uk/documents/respect-action-plan	The Respect Action Plan
http://www.crimereduction.gov.uk	This includes toolkits for dealing with various disorder issues. Number 4 covers Anti-social behaviour. A Guide to ASBOs and ABCs is also available.
http://www.together.gov.uk	The TOGETHER campaign supports local agencies and residents to tackle anti-social behaviour in their communities. The website provides information, advice, and resources to help practitioners take effective action across England and Wales.

2.6 Previous studies

2.6.1 A number of studies have investigated methods used by social landlords to deal with problems (including noise and other forms of anti-social behaviour) raised by their tenants. In some of them mediation was referred to in the course of the study, in others it was the focus. Some studies attempted to assess the costs and cost-effectiveness of mediation. Reports in the field of neighbour 'nuisance' and ASB have been reviewed; some relevant studies are listed and summarised in **Table 5**.

Table 5 Previous studies of methods for dealing with neighbour problems

Date	Paper	Summary
2005	The Use of Possession Actions and Evictions by Social Landlords Hal Pawson, John Flint, Suzie Scott, Rowland Atkinson, John Bannister, Carol McKenzie and Carl Mills Glasgow University and Heriot-Watt University (prepared for ODPM).	Possession actions by social landlords more than doubled in the decade to 2003. By 2002/03 these were resulting in the eviction of around 26,000 tenants annually. The vast majority of such re-possession are triggered by rent arrears, though a small proportion are to counter anti-social behaviour (ASB). Once evicted, former tenants are often disqualified from social housing. This research evaluated the way local housing authorities (LAs) and housing associations (HAs) use possession orders and evictions and identifying good practice lessons in the use of alternative measures to enforce tenancy conditions.
2003	The role of mediation in tackling neighbour disputes and anti-social behaviour. Alison Brown, Aileen Barclay, Richard Simmons and Susan Eley. University of Stirling	This study examines mediation schemes and alternative approaches to the resolution of neighbour disputes, in order to assess their cost-effectiveness compared to legal remedies such as actions for repossession and anti-social behaviour orders. ¹

Date	Paper	Summary
2002	Responding to Community Conflict: A Review of Neighbourhood Mediation John Gray	The review is a scoping survey of neighbourhood mediation provision in England, Wales and Scotland. It focuses in particular on mediation of disputes between neighbours rather than the wider definition of community mediation that includes victim-offender mediation and peer mediation in schools. It examines how these services are funded, who uses them, and how quality standards are set and maintained. ²
2001	Social Landlords' Responses to Neighbour Nuisance and Anti-Social Behaviour: From the Negligible to the Holistic? Caroline Hunter And Judy Nixon Local Government Studies Vol 27 No 4 (Winter 2001) pp 89 – 104.	Local authorities are urged to develop a 'holistic' response to anti-social behaviour. Recent research into the effectiveness of legal remedies reveals a tension between attempts to address the underlying causes of anti-social behaviour and the government's emphasis on legal action to control and punish perpetrators. The article examines why many landlords are still evicting perpetrators rather than dealing with the underlying causes of their behaviour. The article concludes by outlining the barriers that landlords and other agencies must overcome in order to develop a holistic approach to the problem.
2000	Neighbour Nuisance, Social Landlords and the Law Caroline Hunter, Judy Nixon, Sigrid Shayer. (Published by the CIH).	Research into the scale and nature of anti-social behaviour and the strengths and limitations of existing remedies. It strongly argues that there is no need for further legislation. ¹
1998	Resolving Neighbour Disputes through Mediation in Scotland Jim Dignan and Angela Sorsby University of Sheffield	This is was similar to the 1996 study in England (see below) and noted that though in many ways the situations in the two countries were similar, there were some differences. In particular, mediation services in Scotland tended to be funded by Central rather than Local Government as was the case in England.
1996	Neighbour Disputes: Comparing the Cost Effectiveness of Mediation and Alternative Approaches Jim Dignan, Angela Sorsby and Jeremy Hibbert University of Sheffield (out of print).	The objectives of the researchers were to provide an up-to-date overview of the work of community mediation services and local authority housing and environmental health service departments and to compare the cost-effectiveness of procedures for handling neighbour disputes. ²

Notes 1 These two summaries were taken from the Mediation UK website

2 These two summaries were taken from the ADRNow website.

- 2.6.2 Mediation is also referred to in the Local Government Ombudsman's Special Report on Neighbour Nuisance¹⁷ and the CIEH's publication Neighbourhood Noise Policies and Practice for Local Authorities – a Management Guide¹⁸. Both these documents are concerned with good practice by Local Authorities in responding to complaints from tenants and other residents in their area. Their focus is therefore on policies and procedures; mediation is mentioned as one of the methods available to LAs to deal with ASB including neighbour noise. However, the LGO report points out that not all cases are appropriate for mediation and the CIEH Guide reports that LA experience of the outcome of mediation has been mixed.

¹⁷ February 2005 available from <http://www.lgo.org.uk/special-reports.htm>

¹⁸ September 2006 available from http://www.cieh.org/knowledge/environmental_protection/noise/further_information.htm

3 CONSULTATION ON THE USE OF MEDIATION

3.1 Overview

3.1.1 Two kinds of information were required for the study: straightforward numerical data (eg costs) and views based on experience (eg how effective is mediation). It was considered that information in the first category could be collected by means of a questionnaire but that input for the second category would benefit from discussion at meetings.

3.1.2 Defra was concerned not to overburden the organisations that might contribute to the study and so a collaborative approach was used. Thus initially relevant national bodies were contacted and their existing networks used to introduce the project to their members and invite co-operation from interested users and providers of mediation. The project was also publicised by announcements in appropriate publications. As the project progressed further contacts were made with both organisations and individuals either as a result of them responding to information they had seen, or where an existing participant in the study had provided their contact details.

3.2 Bodies contacted and publicising the study

3.2.1 The first tier of contacts was with the head offices of the CIH, the NFH, and Mediation UK. A questionnaire for mediation service providers was devised in collaboration with the chair of Mediation UK and their national network was used to distribute it to their members.

3.2.2 In the case of the CIH and NHF, the primary objective was to determine whether any of their regions or branches had meetings scheduled within the study period at which a presentation on the project and subsequent discussion would be of interest. The headquarters of the CIH distributed information to their branch secretaries and subsequently a questionnaire similar to that used for mediation providers was distributed with a request for that it be passed on to local members regardless of whether a meeting to discuss the project was to be held. The NFH provided a contact list of their regional branch managers, who were circulated from NHF headquarters with the project information. This was followed up with direct calls.

3.2.3 These initial consultations led to further relevant bodies being identified (eg the SLCNG). Their assistance was then enlisted in sending information about the project to their members or providing direct contact details of members.

3.2.4 Information about the project (with contact details) was sent to the CIEH and the Institute of Acoustics for publication in their respective journals. Housemark and the National Federation of ALMOs also informed their members about the project using their web/email systems.

3.3 Meetings attended

- 3.3.1 Five meetings were attended with groups consisting mainly of users of mediation, one meeting of mediation providers was attended, and a separate meeting was held with an independent mediation service that made direct contact to propose it. The meetings held and the bodies represented at them are listed in **Tables 6** and **7**.

Table 6 **Schedule of Meetings**

Body	Date	Location
NHF West Midlands	10 July 2006	Newcastle-under-Lyme
Midlands Mediation Network	12 July 2006	Wolverhampton
NHF East Midlands	7 August 2006	Leicester
NW Neighbour Nuisance Forum	11 August 2006	Liverpool
Mediation in Action	5 September 2006	Kidlington (Oxon)
G-15/SLCNG	29 September 2006	London
Housing Management Best Practice Unit	6 October 2006	Congleton

Table 7 Organisations Represented at Meetings

Meeting/ Location/Type Organisations/Members	Organisations represented
Newcastle-under-Lyme USERS 10/11	Aspire Housing (2), Beth Johnson HA, Bromford Housing Group, Heanton HA, Moorlands Housing, National Housing Federation, Nottinghamshire Community HA, Walsall HT, Waterloo HA, Whitefriars HA.
Wolverhampton PROVIDERS 9/15	Alliance Mediation Management, Birmingham Mediation Service (2), Broxtowe BC, Heartland Mediation, Mediation UK, North Staffordshire Mediation Service, Peterborough Mediation, Relate (Leicester), Whitefriars – asb4, Wolverhampton Mediation Service (5).
Leicester USERS 11/15	De Montfort Housing, De Montfort University, East Midlands HA, Havelock Homes (2), Midland HT, LHA-ASRA Group (2), Longhurst Homes, National Housing Federation, New Linx HT, Nottinghamshire Community HA, Rockingham Forest HA), Touchstone (2).
Liverpool USERS 9/14	Accent Group (2), Blueline Ltd, Green Vale Homes (3), Harvest Housing (2), Housing Best Practice Unit, North Liverpool Community Justice Centre, Pennine Housing 2000 Ltd, South Liverpool Housing (2), Stoke City Council.
Kidlington (Oxon) PROVIDER 1/2	Mediation in Action (2)
London USERS 9/10	Amicus Horizon Group, Broomleigh Housing, East Thames Group, Guinness Trust, Peabody Trust, PCHA (2), Metropolitan Housing Partnership, William Sutton HA.
Congleton USERS 9/12	Aspire Housing, Beth Johnson HA, Chester & District HT, Dane Housing (2), Muir Group HA, South Staffordshire HA, Templar HA – Regenda Group, Weaver Vale HT (3), Wulvern Housing.

4 RESULTS OF CONSULTATION

4.1 Questionnaire response rate

- 4.1.1 Because most questionnaires were distributed indirectly by other bodies, the exact number of each kind sent out is not known and has been estimated as described below.
- 4.1.2 Mediation UK (the principal distributor of the forms for Providers) estimated that about 160 of their members were mediation services, and about 200 are individual members (for whom this survey might not be relevant). Mediation UK estimated that up to about 100 members might provide mediation services in the context of neighbour disputes. It is therefore assumed that about 100 relevant mediation services would have received questionnaires.
- 4.1.3 Forms for Users were supplied to the head offices of the CIH and the NHF for them to distribute to their network of practitioner groups and regional branches. Local representatives were asked to distribute them to committee members of these groups. The CIH has nine practitioner groups with about 10 to 12 members on each committee. The NHF has nine regional offices in England with similar numbers of committee members in each case. It is therefore estimated that about 100 questionnaires would have been distributed by each of these bodies.
- 4.1.4 Publicity (eg via the CIEH journal, the Housemark e-zine and the CIH) led to about 20 direct contacts requesting a questionnaire (though not all of these led to one being returned).
- 4.1.5 In all, 21¹⁹ forms were returned by mediation service providers, and 38²⁰ by users of mediation services. Most forms were incomplete in some regard (this was considered to be preferable to having no form returned from an organisation). In many cases responses concerning the resourcing of mediation (or of other methods of dealing with disputes) were missing (eg being marked not known or not recorded). In some cases, detailed information on the frequency of use of different methods and/or their resourcing was provided.
- 4.1.6 Assuming that all providers responded having learnt of the study through Mediation UK, leads to a response rate of about 20%. Similarly, assuming that all users responded as a result of CIH or NHF contacts also leads to response rate of about 20%. It is believed however, that the response rate assessed on the basis of questionnaires despatched and those returned would be lower than 20% in each case.

¹⁹ This includes 3 forms from services that only provide family mediation in the context of homelessness. Some services mediate in circumstances other than noise or ASB, and so these 3 returns have not been excluded from the analysis.

²⁰ This includes 5 forms from services that do not use mediation for noise issues but only for eg ASB or homelessness. Since other users employ mediation in non-noise cases, these 5 returns have not been excluded from the analysis.

4.1.7 In view of the number of forms returned, all available data²¹ were used and the analysis (eg average cost of a case) took account of the numbers responding to individual questions. Similarly, the analysis pools all users into one set and all providers into another. Within each of these datasets no distinction was made between different types of service provider (eg in-house or external) or user (eg HA or LA).

4.2 Analysis of questionnaire data – Mediation Service Providers

4.2.1 The following information is presented below:

- Type of service operated Table 8
- Type and amount of Annual funding Tables 9 and 10
- Caseload – by referring agency and type of case Table 11 and Chart 1
- Resourcing per case Table 12
- Percentage of cases referred at given stage Table 13
- Percentage of cases assessed by referring body before referral Table 14
- Period after referral before contact by mediator Table 15
- Period for which mediators provide support to client Table 16
- Mediation methods used and Cases resolved Charts 2 and 3, and Table 17

Table 8 Type of mediation services operated by providers

Type of service	(Total returns 21)
Independent with SLA's	10
Independent, and grant supported	10
Within a LA	7
Within a HA	3
Within an ALMO	0
Not specified	3
<i>Constituted not-for-profit</i>	<i>14</i>
<i>A business</i>	<i>3</i>
<i>Not specified</i>	<i>6</i>

Note Total of types > 21 since categories are not all mutually exclusive.

Table 9 Source and type of funding

Type of Funding → Source of Funding	Service Level Agreement	Case by case
LAs	16	10
HAs	11	14
Police	1	13
Other bodies	7	13
Self referrals	0	12
Total returns	19	17

²¹ Two returns were from Environmental Health Departments and some data from these were not included in the general analysis, as explained in the text.

Table 10 Annual funding of mediation service providers – £

Annual funding from all sources for neighbour mediation – (Total returns 13)		
Minimum	Maximum	Average
£11,495	£154,000	£76,565

Table 11 Average annual caseload by type and referring body (Chart 1)

Referring body	Number of returns			Average cases per year			Total referrals per body
	Noise	ASB	Other	Noise	ASB	Other	
LA	14	13	17	25	18	56	99 (55%)
HA	14	9	7	17	15	5	37 (20%)
Police	10	9	11	3	4	4	11 (6%)
Other bodies	8	6	9	3	4	5	12 (7%)
Self referrals	12	10	12	6	5	9	20 (11%)
Totals	Responses per topic			Referrals per topic			Cases/year
	16	15	17	54	46	79	179
	As percentage of total cases →			30%	26%	44%	

4.2.2 The data on caseload shown in Table 11 are summarised in Chart 1.

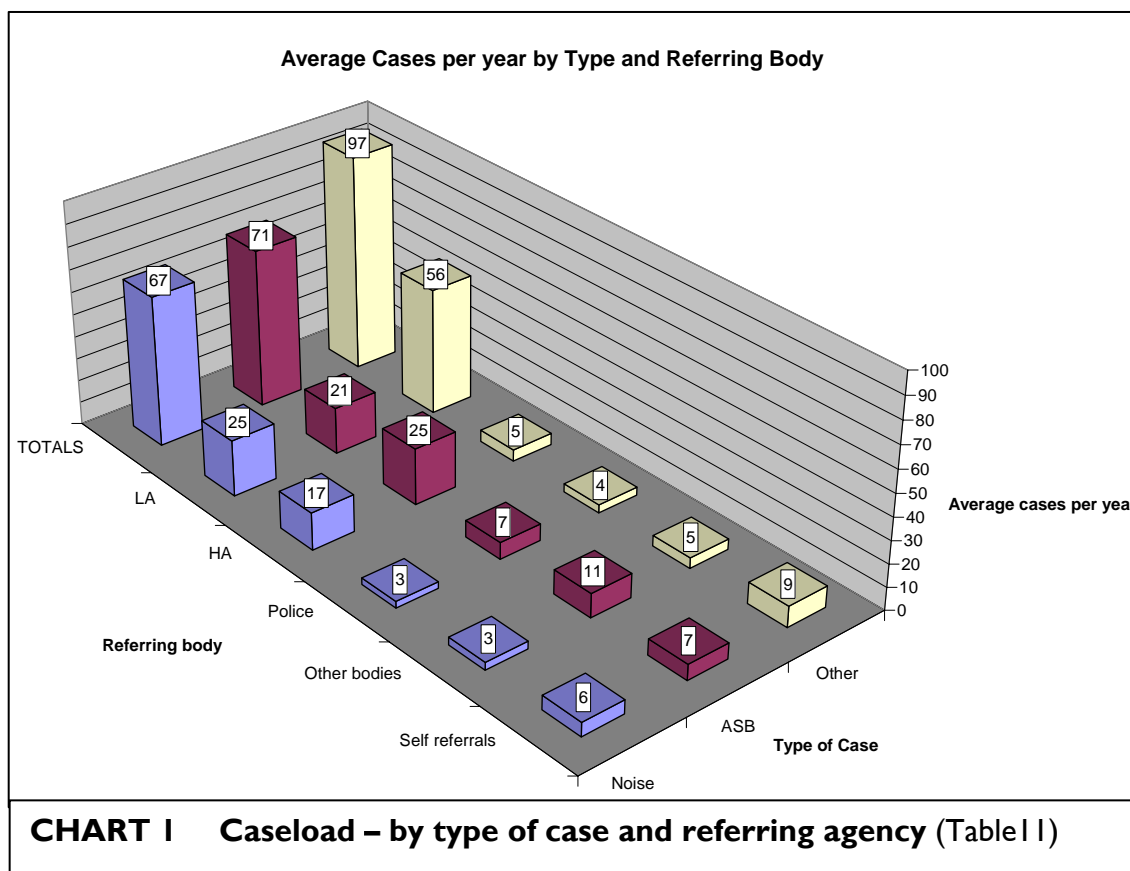


Table 12 Resourcing per case for Mediation Service Providers

Measure	No of returns	Min	Max	Average
Staff time – hrs	15	3	90	23
Cost – £	13	£90	£900	£488
Cost/hour – £ (Note 1)	12	£3	£167	£38

Note 1 Annual funding divided by annual referrals (except one case for which £/hr was provided).

Table 13 Percentage of cases referred at given stage

Stage	No of returns	Min	Max	Average ¹
Offered in initial contact by referring body	18	5%	100%	48%
After other informal methods	13	10%	75%	26%
Before court/legal action	13	4%	80%	13%
As last resort	12	10%	50%	14%

Note 1 No data from 3 respondents so averaged over 18 responses

Table 14 Percentage of cases assessed by referring body before referral

Referring body	No of returns	Min	Max	Average
LA	12	25%	100%	70%
HA	8	5%	100%	47%
Police	7	12%	100%	34%
Other bodies	5	20%	100%	26%

Note No data from 8 respondents so averaged over 13 responses

Table 15 Approximate period between referral and contact with client

Numbers of Providers responding for each period				
Days			Weeks	
1	2	3 – 5	1	2 – 3
3	7	5	4	1
15%	35%	25%	20%	5%

Note 20 returns from PROVIDERS of mediation services

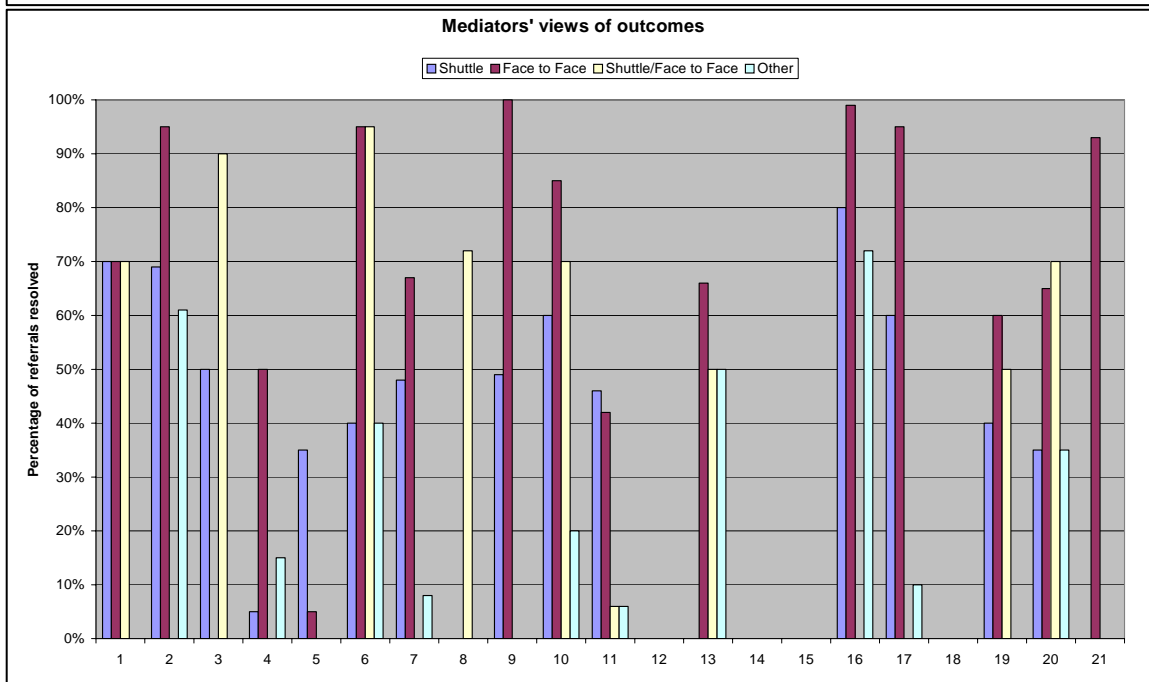
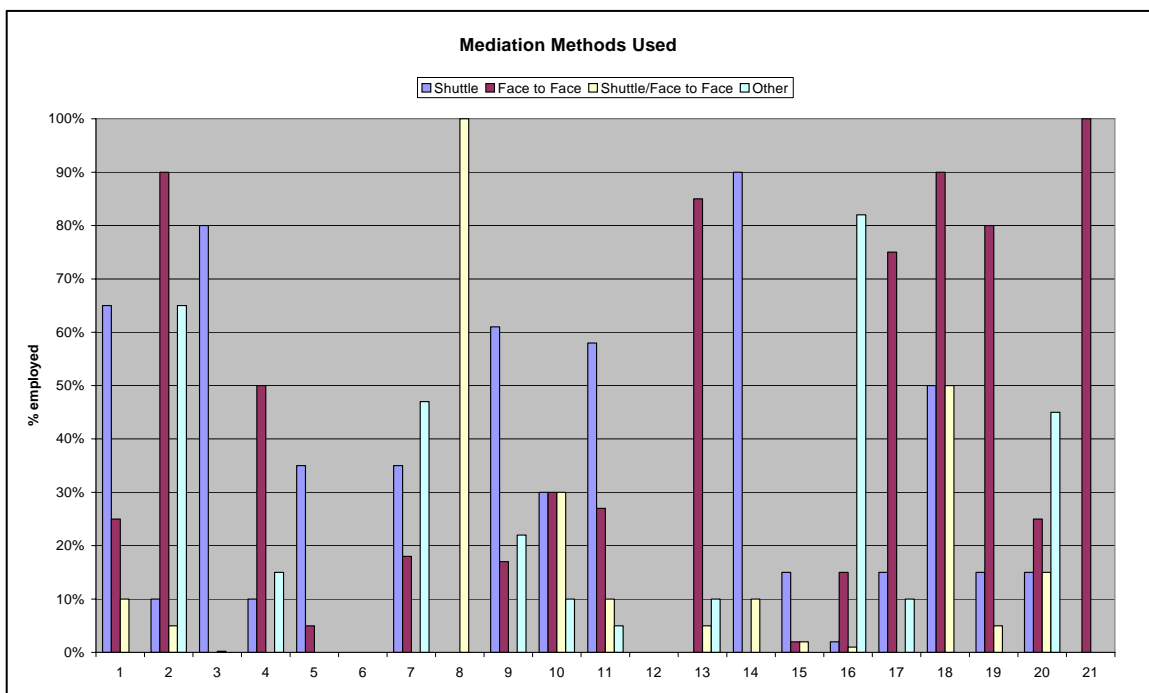
Table 16 Approximate period for which support to client(s) is provided

Numbers of Providers responding for each period								
Weeks				Months				
3	4	1 month	6	2	3	4	5	6
1	3	1	4	5	0	2	1	2
5%	16%	5%	21%	26%	0%	11%	5%	11%
Note		19 returns from PROVIDERS of mediation services						

4.2.3 The occurrence of different mediation methods, and the mediators' assessment of the numbers of cases resolved by those methods, are shown in Table 17 and Charts 2 and 3.

Table 17 Mediation methods employed and Cases resolved

Method	Mediation methods employed				Mediators' view of cases resolved			
	Returns	Min	Max	Average	Returns	Min	Max	Average
Shuttle	16	2%	90%	31%	14	5%	80%	40%
Face to Face	16	2%	100%	39%	15	5%	100%	64%
Shuttle/Face to Face	13	1%	100%	13%	9	6%	95%	34%
Other	10	5%	82%	16%	10	6%	72%	19%
Note	19 returns from PROVIDERS				17 returns from PROVIDERS			



Charts 2 (top) Percentage use of different mediation methods

Chart 3 (bottom) Percentage of cases resolved (Table 17)

4.3 Analysis of questionnaire data – Mediation Service Users

4.3.1 The 38 responses were received from the range of bodies shown in Table 18.

Table 18 Users of mediation services responding to questionnaire

Type of body	No of questionnaires received (Total 38)
Housing Association (HA)	20 ¹
Housing Trust (HT)	6
Local Authority (LA) other than Environmental Health	5 ²
Large Scale Voluntary Transfer body (LSVT)	4
Arms' Length Management Organisation (ALMO)	1
Environmental Health Department (EHD)	2 ³

Notes

- 1 One HA returned 3 forms and another 4 forms relating to different areas or regions
- 2 Includes one LA with no housing stock
- 3 These served about 50 and about 450 S80 EPA notices per year respectively (concerning noise).

4.3.2 The data have been analysed to illustrate the following:

- Type of mediation service available to users Table 19
- Type of funding for mediation service available to users Table 20
- Percentage of users' tenancies for which mediation is available Table 21
- Caseload – by topic and resolution method used Table 22 and Chart 4
- Resourcing – by case and method Chart 5 and Table 24
- Percentage of cases referred at given stage Table 25
- Percentage of cases assessed by referring body before referral Table 26
- Period after referral before contact by mediator Table 27
- Period for which mediators provide support to client Table 28
- Mediation methods used and Users' views of cases resolved Chart 6 and Table 29

Table 19 Type of mediation service available to users

Type of service	Responses received (Total returns 38)
External, within LA	10
LA in-house	2
Own in-house service	4
Independent with SLA's	15
Independent, and grant supported	8
Constituted not-for-profit	3
A business	4
Other	3

Notes

- 1 Total > 38 since categories are not all mutually exclusive.
- 2 Some users have tenants in more than one LA area and hence have access to more than one provider (if different providers operate in different LA areas). However, in this table, the maximum count for particular user is 1.

Table 20 Type of funding for mediation service available to users

Type of service	Responses received (Total returns 38)
LA(s)	10
Your organisation under an SLA	13
Your organisation on a case by case basis	17
Other funding	9
Notes 1	Total > 38 since some users have access to more than 1 provider, eg in different areas.
2	Some users have tenants in more than one LA area and hence have access to more than one provider (if different providers operate in different LA areas). However, in this table, the maximum count for particular user is 1.

Table 21 Percentage of tenancies for which mediation is available

	Tenancies Managed by Housing Body		
	Min	Max	Average
Total tenancies per landlord (34 returns)	1100	26000	7412
Mediation available for (%) (29 returns)	12%	100%	93%

4.3.3 The average annual caseload categorised by topic and resolution method is shown in Table 22 (which includes the number of returns) and Chart 4.

4.3.4 Note that 'Formal Mediation in-house', should not be confused with 'Informal, in-house (methods)'. Formal in-house mediation uses mediators trained in the same principles as external mediation providers²². Informal, in-house methods might include listening to both parties' point of view as part of understanding the complaint and the issues involved, but would not use trained mediators. In this report, mediation refers to a process carried out by trained mediators whether external to the referring body or in-house.

²² There might be a separate team of full time mediators or staff who have another role might be trained and used as necessary for mediation. In the latter case they would not be the same staff who dealt with the case in the first instance in order to remain independent.

Table 22 Average caseload by topic and resolution method (Chart 4)

Methods used	Average cases /year			Total/ Method ¹
	Noise	ASB	Other	
No of returns per topic → 26				
Informal, in-house	53 (80%) ²	44	12	142 (65%)
Formal Mediation (in-house/external)	8 (12%) ²	8	10	23 (10%)
ABC	1 (1%) ²	8	1	8 (4%)
Notices seeking Possession	3 (5%) ²	8	8	36 (16%)
Injunction	0	3	0	3 (1%)
ASBO	0	2	0	2(1%)
Eviction	0	2	1	2(1%)
S80 Environmental Protection Act ³	1 (1%) ²	0	0	1(0%)
Other	0	1	1	2 (1%)
				Total Cases/year
Average cases per issue	66	75	31	217
As percentage of total cases	40%	51%	9%	

Notes 1 Total cases per year is greater than sum of topic values because some returns included a total value but did not break it down between topics.
 2 Percentage of noise cases using this method
 3 Excludes data from two EH Departments: one issued about 50 S80 notices/year, the other about 450.

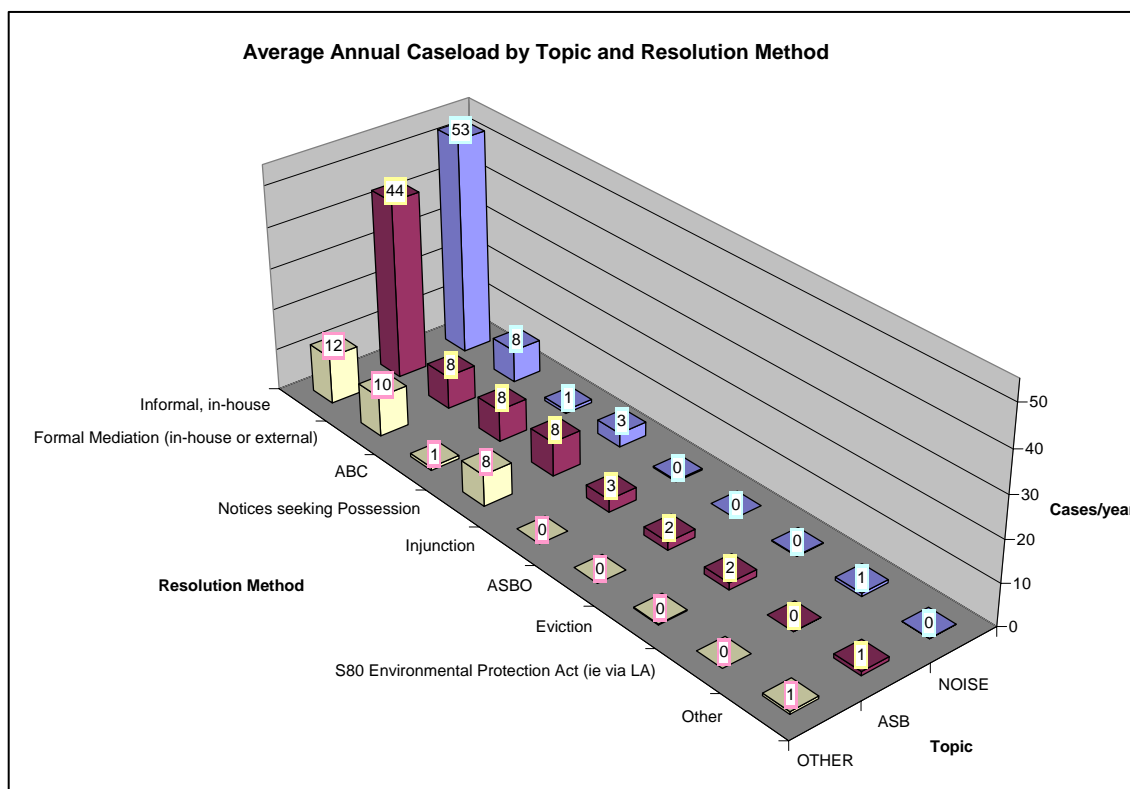


CHART 4 Average annual caseload by topic and method (Table 22)
 Excluding data from EH Departments

- 4.3.5 The use of S80 EPA notices by the two Environmental Health Departments was greater (in one case much greater) than was reported by housing providers (including LAs). Consequently the data concerning the numbers of notices have been excluded from the above analysis. However, both these EH Departments did make use of mediation and so the information on their approach is shown in Table 23 together with corresponding information from housing providers that reported the use of S80 notices.

Table 23 Noise cases per year for users of S80 EPA Notices

<i>Resolution method used</i>	Type of Body →						
	HA	LA	EH	HA	HA	HA	EH
<i>Formal Mediation (in-house/external)</i>	1	0	5	0	0	0	9
<i>ABC</i>	0	0	3	0	0	0	0
<i>S80 Environmental Protection Act</i>	2	14	450	2	1	2	50
Total noise cases	85	92	458	2	1	10	59

- 4.3.6 The average, minimum, and maximum costs per case for different resolution methods are shown in Table 24 (which also shows the number of returns) and Chart 5.

Table 24 Cost per case of different resolution methods (see Chart 5)

Method	Number of returns	Average	Min	Max
Informal, in-house	5	£224	£26	£600
Formal Mediation (in-house or external)	10	£334	£15	£503
ABC	5	£180	£15	£600
Notices seeking Possession	6	£170	£15	£600
Injunction	8	£742	£44	£2,000
ASBO	2	£4,350	£1,200	£7,500
Eviction	8	£3,158	£15	£10,000
S80 Environmental Protection Act (ie via LA)	0	£0	£0	£0
Other	1	£15	£15	£15

Note Excludes data from EH Departments

Table 25 Percentage of cases referred at given stage

Stage	No of returns	Min	Max	Average ¹
Offered in initial contact by referring body	15	5%	100%	30%
After other informal methods	20	10%	100%	49%
Before court/legal action	9	15%	100%	17%
As last resort	3	5%	100%	1%

Note 1 No data from 13 respondents so averaged over 25 responses

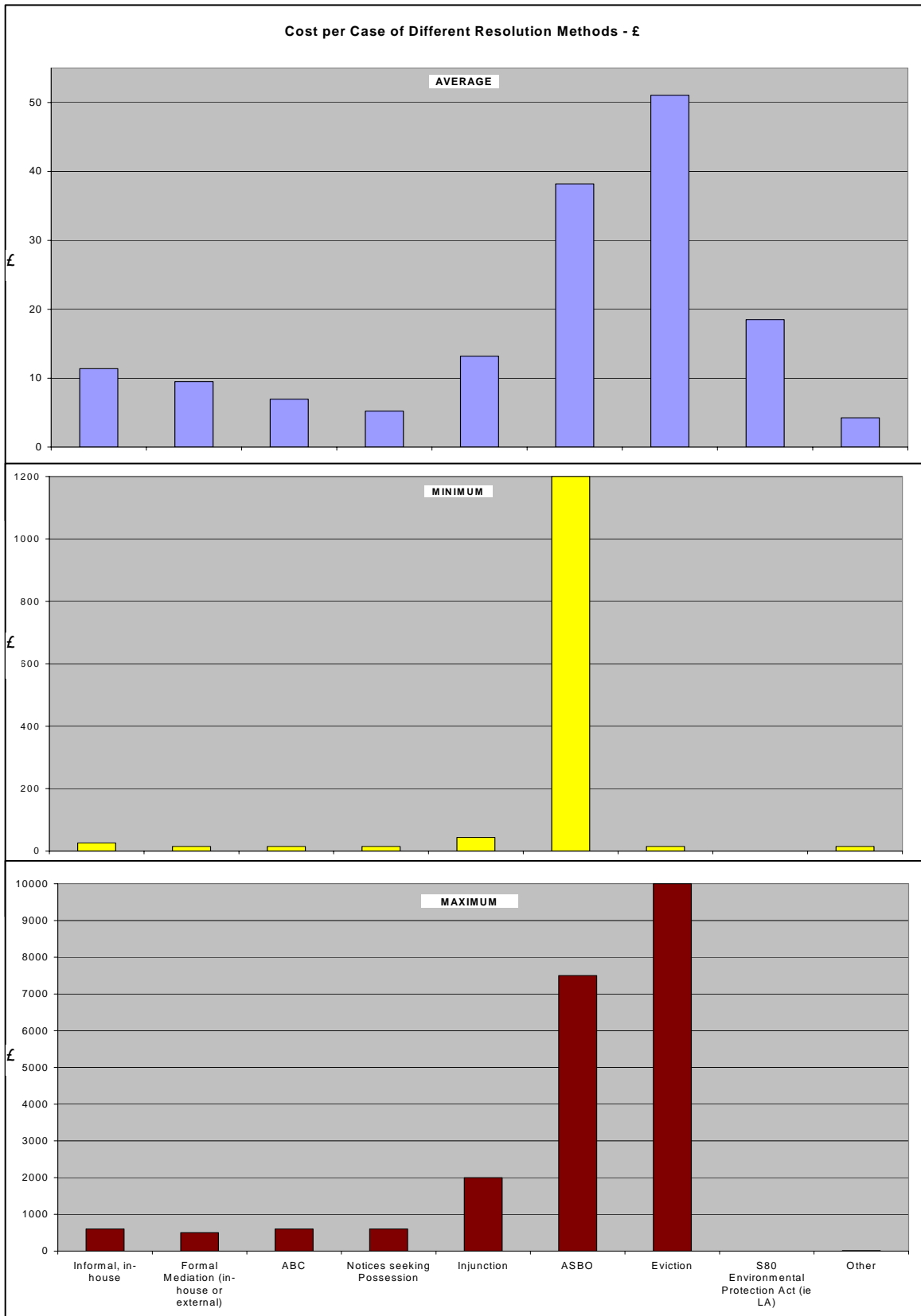


CHART 5 Average, Minimum, and Maximum Cost per case for different resolution methods (Table 24)

Table 26 Assessment of cases before referral to mediation service

Assessment by	Number	Percentage
Referring body itself	32	86%
Other bodies	7	19%
Any body	36	97%

Note 37 responses; some use assessment both by themselves and by other bodies

Table 27 Approximate period between referral and contact with client

Numbers of Users responding for each period					
Days			Weeks		
1	2	3 – 5	1	2	3
4 13%	3 9%	4 13%	9 28%	8 25%	4 13%

Note 32 returns from USERS of mediation services

Table 28 Approximate period for which support to client is provided

Numbers of Users responding for each period										
Weeks				Months					Other	
3	4	5/1 month	6	2	3	4	5	6	Varies	Unknown
3 14%	0 0%	4 19%	5 24%	1 5%	6 29%	1 5%	0 0%	1 5%	6	6

Note Percentage based on 21 returns from USERS of mediation services that specified periods

4.3.7 The data on outcomes are summarised in Table 29, which also shows the number of responses; responses from individual services are shown in Chart 6.

Table 29 Summary of users' estimates of outcomes (Chart 6)

Method	Noise				ASB			
	Min	Max	Average	Returns	Min	Max	Average	Returns
Shuttle	4%	100%	51%	6	3%	100%	45%	7
Face to Face	3%	100%	50%	6	3%	100%	67%	6
Shuttle → Face to Face	5%	80%	28%	4	5%	80%	42%	3
TOTAL FIGURE	3%	100%	55%	12	3%	100%	48%	8

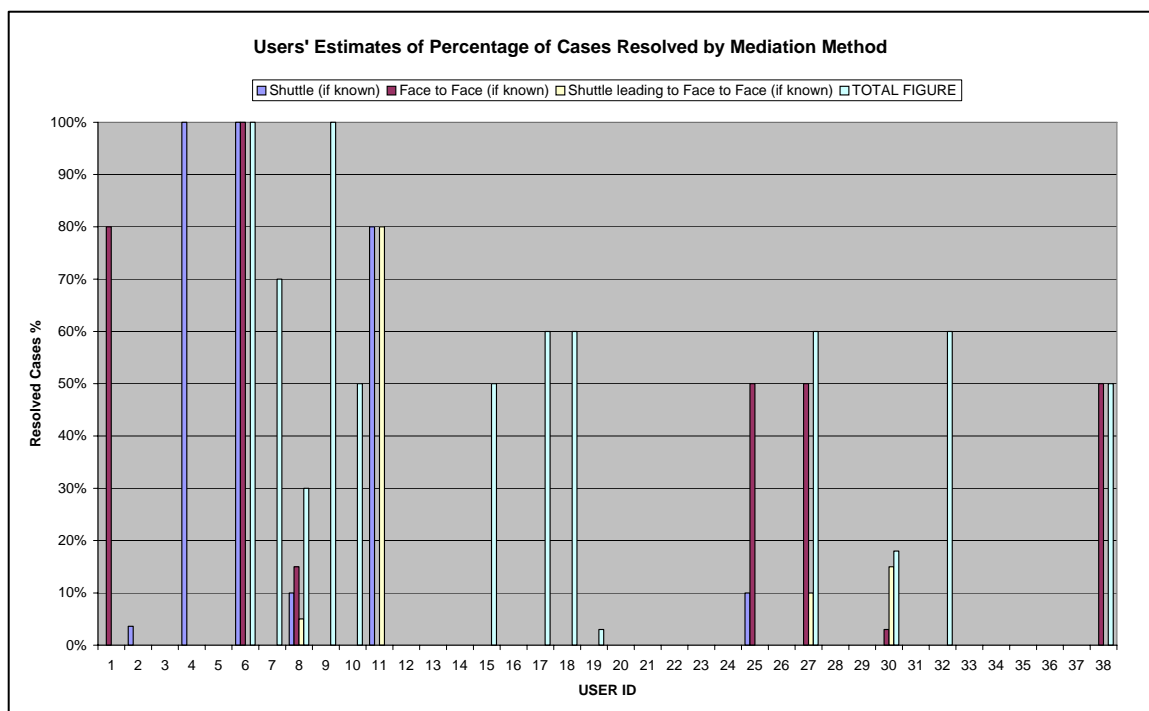


CHART 6 Users' estimates of outcomes (Table 29)

4.4 Mediation in Scotland

4.4.1 There are two publicly funded bodies in Scotland promoting mediation with a view to it becoming more widely understood and being considered a primary method of resolving conflict in a wide range of situations in the community.

4.4.2 One of these bodies, the Scottish Mediation Network (SMN) began in the early 1990s as a small informal group of practitioners and other interested parties, meeting to discuss practice issues and encourage the growth of mediation in Scotland. The Network was re-launched in 1997, by which time a number of community, victim-offender and other mediation schemes had become established, and quickly built up an active membership base. Activities included the publication of a training directory, a national press campaign, and a successful briefing to MSP's in the Scottish Parliament.

4.4.3 In 1999 the Network began discussions with Mediation UK about the possibility of a joint bid to the National Lottery Community Fund for the establishment of a Scottish Mediation Network office: this culminated in a formal bid being made in May 2001. The bid was successful and funding established for three years; a full-time Development Officer and Administrator were recruited, with the office formally opening in September 2002. The membership of the SMN comes from all spheres of mediation in Scotland: family, community, court, business, peer, environmental, workplace, employment, ASL etc.

- 4.4.4 Since September 2005 it has operated independently of Mediation UK. The Scottish Executive presently funds its work on public awareness and quality assurance of mediation. It has also secured funding from the Esmee Fairbairn Foundation to develop resources to encourage growth of peer mediation in schools. At the time of writing (6.11.06) the SMN employs a Director, a full time Public Awareness & Events Development Officer, a full time Mediation in Education DO and full time Administrator.
- 4.4.5 The second body, is the crime reduction charity, Sacro: - Safeguarding Communities – Reducing Offending. This body pioneered community mediation in the last decade. There are now neighbour mediation services in all but one of the 32 local authority areas, provided by a mixture of paid mediation workers and volunteers. Some are council run and others are Sacro services.
- 4.4.6 This growth has been facilitated by funding from the Scottish Executive including funding to Sacro to provide training for mediators²³. The types of dispute covered by the services include:
- Boundary/property disputes
 - Children’s behaviour
 - Noise
 - Other
 - Other Anti-Social or Abusive Behaviour, and
 - Racial Harassment
- 4.4.7 Sacro also receives data collected by mediation services in 16 of the LA areas, and hence this covers about 50% of the Community Mediation referrals in Scotland. The system does not only record cases that proceed to formal mediation but also referrals that receive Advice, Guidance, and Assistance (AGA).
- 4.4.8 Providing AGA consumes resources and consequently needs to be logged. In addition, the support given by AGA is believed to assist in resolving or improving some cases without a formal mediation process being followed.
- 4.4.9 Referrals from the following agencies and bodies are logged by the type of case:
- Anti-Social Behaviour Team
 - CABs/Advice Centres
 - Environmental Health & Consumer Services
 - Housing (Local Authority)
 - Housing Associations
 - MSPs/MPs and Councillors
 - Others
 - Police
 - Police Call Centre
 - Self-referrals
 - Social work

²³ Funding was approximately £65,000 for 1999-2000, £85,000 for 2000-2001, and £91,500 for 2001-2002: a total of approximately £241,500 over 3 years. Scottish Executive News Release SE0918/2000 30 Mar 2000.

4.4.10 Sacro has helpfully provided data for the period 1 April 2005 to 31 March 2006 from which the following has been derived:

- Annual funding Table 30
- Caseload and Proportion of referrals going to mediation Table 31
- Parties' view of success rate ²⁴ (ie positive outcome) Charts 7 and 8
Tables 32, and 33
- Referrals received for different topics Table 34
- Referrals received from different bodies Table 35 and Chart 9

Table 30 Funding for mediation services in Sacro areas – £

Mediation Services in 16 LA Areas	2005-2006 Budget – £
Minimum	16,042
Maximum	184,579
Average	91,107
TOTAL	1,457,718

Table 31 Annual caseload and Proportion of referrals going to mediation

Data from 16 LA Areas 2005 - 2006	Minimum	Maximum	Average
Referrals	63	426	213
Mediation used	17	123	71
Enquiries (AGA)	46	310	142
Proportion mediated	20%	47%	34%

4.4.11 Data on mediation outcome is presented separately for mediation using a Mediation Meeting (Chart 7 and Table 32) and for Shuttle Mediation (Chart 8 and Table 33).

Table 32 Outcomes using Mediation Meetings (Chart 7)

Outcomes of Mediation using Meetings (2005 – 2006)					
	Full agreement	Improved	Withdrawal	Irreconcilable Differences	Other
Minimum	68%	0%	0%	0%	0%
Maximum	100%	16%	12%	9%	3%
Average	84%	10%	3%	3%	1%

²⁴ ie in the view of the parties participating in the mediation, not the mediators themselves.

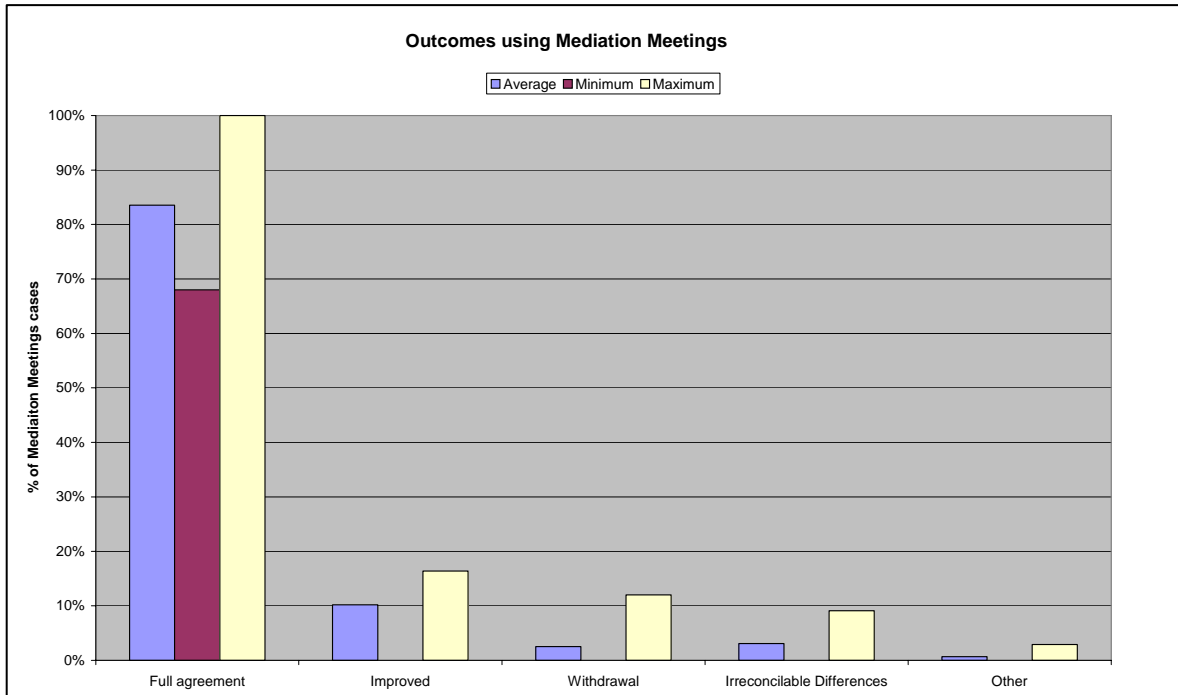


Chart 7 Outcomes using Mediation Meetings (Table 32)
 Data for 2005 – 2006 courtesy of Sacro

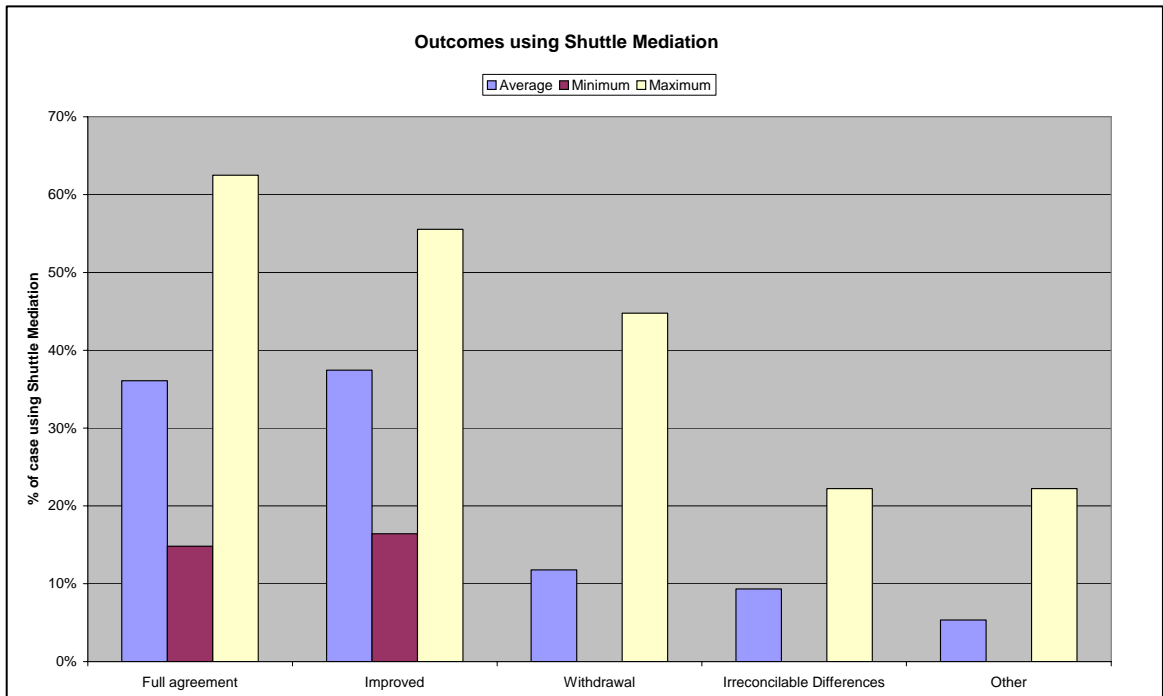


Chart 8 Outcomes using Shuttle Mediation (Table 33)
 Data for 2005 – 2006 courtesy of Sacro (Note changed vertical scale from Chart 7).

Table 35 Distribution of referrals by referring body in all 16 areas (Chart 9)

Data for 2005–2006 Referring body	Percentage of total cases in each category		
	AGA provided	Mediation offered	All referrals
Anti-Social Behaviour Team	6%	7%	6%
CABs/Advice Centres	1%	0%	1%
Environmental & Consumer Services	2%	1%	2%
Housing	33%	41%	35%
Housing Association	8%	12%	9%
MSPs/MPs + Councillors	1%	0%	0%
Others	8%	7%	8%
Police	11%	10%	10%
Police Call Centre	0%	0%	0%
Self	31%	21%	27%
Social Work	0%	0%	0%
Totals	100%	100%	100%

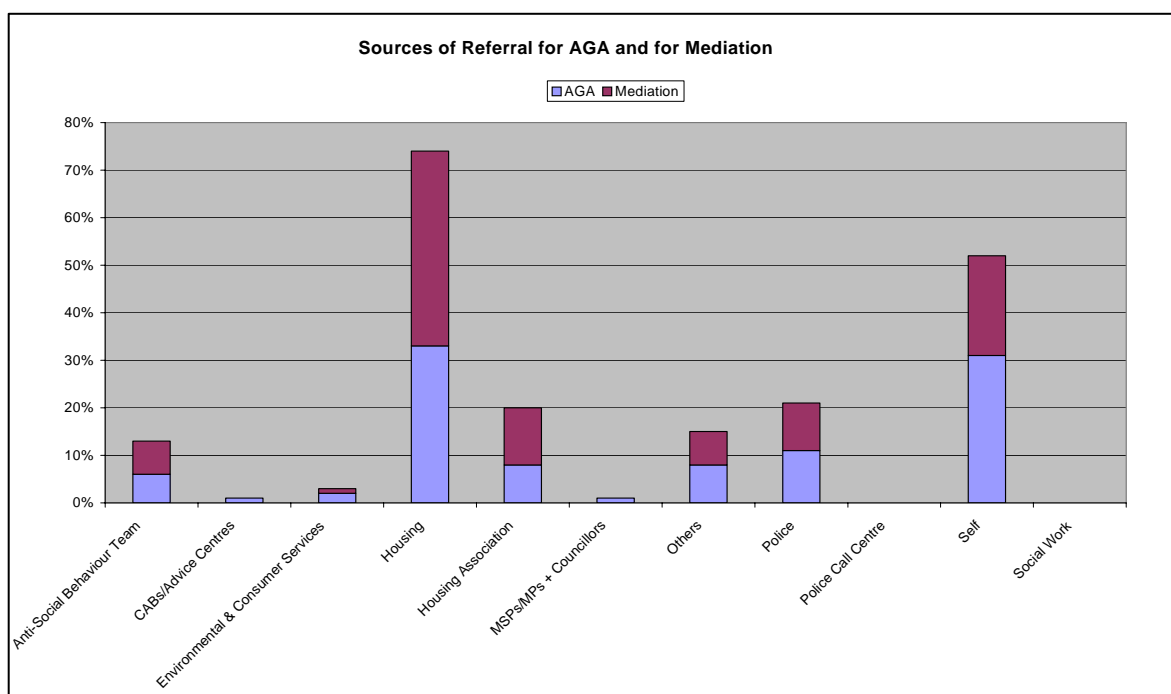


Chart 9 Distribution of referrals by referring body (Table 35)
Data for 2005 – 2006 courtesy of Sacro

4.5 Case study – Experience of an independent mediation provider

Case study – Effective approaches

An independent mediation service (Business X) has operated in England over the past 10 years, and has devised an approach that has proved effective in dealing with neighbour noise cases, including those that have been ongoing for 2 years or more before their involvement.

The principles of their approach address several of the issues that were raised in the consultation with Housing Officers and Mediation Service providers. They illustrate practical ways of responding to these points¹.

98% of cases undertaken by Business X go to mediation for which there is an overall 89% success rate. They also have a relatively high proportion of mediation cases in which joint meetings are held. In a recent batch of cases – 79% went to joint meetings, in which shuttle mediation was used for only 14% of them.

The referring agencies include Housing Associations, Local Authority Housing Departments, Environmental Health Departments and the police.

Business X works with organisations on a case by case basis even when they are providing mediation for all an agency's cases.

The following topics and comments emerged from the consultation with other mediation services.

Low take-up of mediation (usually by complainant declining it)

- Complainant might want to 'have their day in court'
- Mediation sounds like compromise – consider changing the name
- Complainant might be fearful of meeting the neighbour face to face

Uncertainty about effectiveness of outcomes

- Because Mediation Services are confidential, the referring agency might not have any indication of the outcome in a specific case – their only guide might be the absence of further complaints, leading them to assume that it had been resolved.
- One query raised was whether initial 'solutions' would endure.

Note 1 Other mediation providers may use some or all of these principles. Business X is an example of a provider utilising all of them to achieve successful mediation outcomes.

Elements of the Business X approach that address the above issues

Offer of mediation by referring agency

When a new referring agency becomes a client, Business X provides a presentation for all those in the organisation (eg HOs) who might need to use their service for one of their cases. This explains the process used by Business X and gives guidance on identifying cases that might and might not be suitable for mediation. Business X also explains how the topic of mediation and the involvement of Business X should be introduced (see below).

Contacts with disputants by Business X

The first contact from Business X to the prospective 'client' is in the form of a letter² explaining that a visit will be made, within a week, by independent assessors to discuss with them their situation and consider what options are available. The client has the opportunity to change this appointment.

The assessment consultation provides an opportunity for all parties³ to explain their concerns (including any steps they have already taken to try to resolve the dispute) to an independent party who is able to discuss the possible ways to proceed. Business X's mediators can draw on their knowledge of the relevant legal options and their experience gained over several hundred cases over 12 years to provide impartial information to disputants about what agencies can and cannot do. Business X can then assess the case to determine whether it is suitable for mediation.

Disputants are informed that should they proceed to mediation there will be continuity of the mediators involved who will contact them after 6 weeks and again after 6 months. The mediators can be contacted (direct) at any time during that period of 6 months after the process has started⁴.

Contacts with Referring Agency by Business X

The small size of the organisation enables there to be minimum of bureaucracy while maintaining careful case recording and reporting.

Business X maintains confidentiality in respect of the details of the case but provides reports to the referring agency at the end of each month – eg whether it has proceeded to mediation, whether there has been an agreement between the parties, and whether that is being maintained. Officers from referring agencies can also make direct contact with the mediators dealing with their cases at any time by email or telephone.

Six weeks after a mediation meeting or a shuttle mediation, Business X will contact the parties and a case completion sheet is then sent to the referring agency if there are no further problems,

Note 2 The introductory letter to the disputants carries the Business X title, which includes the word Mediation, so there is no attempt to mislead the recipient.

Note 3 Both parties are visited for assessment in 99% of referrals. Note that in many cases there are counter-allegations and so both parties can be complainants.

Note 4 Business X's experience is that in practice the offer of continued support is not taken up frequently. However, it is believed that the knowledge that contact can be made has a positive effect in encouraging take up of mediation by providing reassurance of continuing support if required.

Where a client complains again to the agency within the 6-month follow-up period, then the agency can refer the parties straight back to Business X. If after 6 months there are still problems, then Business X will write an assessment report for the agency (with the permission of the client) clarifying the issues involved. This assists the agency in deciding how to proceed.

Range of cases handled and outcomes

Business X handles homelessness cases and has carried out research into mediation issues, but its main experience has been with neighbour noise disputes – about 100 referrals per year.

Business X handles cases at any stage of the dispute, however, most of their cases have already been to other agencies. Agencies generally only send them cases that have been looked into by other agencies (or eg MPs, Councillors, police etc) and no resolution found. They therefore tend to be the more problematic ‘high-level’ cases.

Cases are usually referred where the agency concerned has made contact by letter or by visiting the parties involved but has been unable to gather enough evidence to take legal action (eg under housing legislation), or there are counter complaints, or where a statutory nuisance has not been established.

Cases that may not be successful include those where:

- There are threats of violence
- Drugs or alcohol are involved ⁵
- There are mental health needs ⁵

The assessment visit and report in these cases often highlights needs that are not being met, and so Business X works with support agencies ⁶ involved (including attending case conferences, if requested) to assist in resolving the issue.

Note 5 Business X’s experience is that although people are willing to accept responsibility when sober, they are not able to do so when under the influence of drink or drugs.

Note 6 If appropriate, Business X works with mental health workers to take the case forward.
eg Environmental Health departments, Social Services, police, alcohol support agencies.

5 REVIEW OF CONSULTATION RESPONSES

5.1 Overview

5.1.1 The topics of interest to the study include:

I	Types of service	who runs them
II	How are they used	Service Level Agreement (SLA) or <i>ad hoc</i> referrals
III	Availability	by geographic distribution, and type of tenure
IV	Frequency of use	in absolute terms, and in comparison to other options
V	Effectiveness	and how is this assessed
VI	Costs	of running a service, of SLA, of <i>ad hoc</i> referrals
VII	Cost-effectiveness	costs and effectiveness of other options
VIII	Point of take-up/referral	at outset or after use of other options

5.1.2 Views were also sought on means of improving the resolution of cases referred for mediation, increasing the uptake of mediation, and other measures to improve the overall effectiveness of mediation.

5.1.3 Owing to the relatively small number of returned questionnaires, assessments based on the data should be regarded as indicative rather than a reliable view of the national situation in England. With that proviso, the following conclusions can be drawn.

I Types of service

5.1.4 The Users data (Table 19) shows that more users had access to independent services supported by SLA's or grants (total 23), than to services within a LA or HA (total 16). (The total is higher than the number of returns because some housing providers have stock in more than one LA area and use multiple services depending on the location of their stock).

5.1.5 This is broadly consistent with the information from Providers (Table 8) which shows that only 10 services are 'in-house' but 20 are independent (supported by grants/SLAs). However, for the data available, each of these types of service provides a substantial amount of the total mediation provision available.

5.1.6 These two tables each show that mediation providers operating as a business are in the minority (3 of the providers that responded and 4 of the services available to users)²⁵. Nevertheless, these businesses presumably supply a need, and users must consider that they provide a reasonable service if they continue to trade.

²⁵ Some in-house mediation services take referrals from outside organisations describe themselves as both 'in-house' and as a business, and so there is an element of double-counting, as previously noted.

II How they are used

- 5.1.7 As regards funding, mediation service providers report (Table 9) more examples of funding on a case-by-case basis (62) than by way of an SLA (35). This is still the case if self-referrals are excluded (the figure for case-by-case funding then falls to 50). However, for LAs using mediation services SLAs are a slightly more common form of funding (16 as opposed to 10 for case-by-case).
- 5.1.8 According to data from providers (Table 11), Local Authorities make the most referrals (55% of referrals taking all topics together) with Housing Associations the next largest group (20%).
- 5.1.9 The Sacro data in Table 35 also shows that Local Authorities make the largest number of referrals (35%). The next highest number of referrals were self referrals (27%). Amongst organisations, the next highest number of referrals were made by the police (10%), though Housing Associations referred nearly as great a percentage of the total (9%), and more of the cases referred by HAs proceeded to mediation (12% of all mediated cases, compared to 10% of all mediated cases that had been referred by the police).

III Availability by geographic distribution and type of tenure

- 5.1.10 The sample is small and not evenly distributed nationally and so inferences about the effect of location cannot be deduced. Non-LA housing providers dominate the sample and so an assessment of the influence of tenure cannot be made.
- 5.1.11 Table 21 shows that the proportion of a landlord's stock having access to a mediation service varies from 0 to 100%, the average being about 93%.
- 5.1.12 Mediation UK has a database of service providers and it had been expected that this could be used to obtain an overview of national coverage. However, Mediation UK has ceased operating and so this approach is not currently possible.

IV Frequency of Use

- 5.1.13 Data from providers (Table 11) shows that within the average of 179 cases per year referred to them, noise is the second, highest category. (Noise contributes 30%, ASB, 26%, and 'other' topics 44%). Table 22 (from users' data) shows that for users of mediation, noise is also the second highest of these three categories. Of the average of 217 cases per year that users process, the split between noise, ASB and 'other' issues is 40%, 51%, and 9% respectively.
- 5.1.14 Taking all topics together, users deal with the majority of their cases by informal methods (65%, Table 22). The next most frequent methods are, Notices Seeking Possession (16%), and Mediation (8%).
- 5.1.15 In the case of noise problems, informal methods are also the most frequent approach (80% of noise cases reported), followed by Mediation (12% of noise cases), and Notices Seeking Possession (5% of noise cases).

- 5.1.16 The above figures should not be used as a precise ranking of the incidence of different issues or the use of different methods, since the number of respondents is small. However, it appears that noise-related complaints form a substantial component (between a third and a half) of the problems presented to housing providers. It also seems that informal methods are the most frequently used approach, slightly more so for noise cases than for issues overall. Mediation is the second most frequently used method for noise cases.
- 5.1.17 It is not known whether informal methods are successful or cost-effective. It was observed at one of the meetings with housing officers, that some cases could take a considerable amount of HO resources because they continue for a long time. Whether such cases can be resolved more quickly, cheaply, or effectively by formal mediation cannot be determined from the study data but was a query raised in consultation.
- 5.1.18 Sacro data (Table 31) shows that, on average, mediation services received 213 referrals (for the year 2005 – 2006), of which 71 (34%) proceeded to formal mediation. This is lower than the average number of referrals reported by service providers responding to this Defra study (see paragraph 5.1.13).
- 5.1.19 Whereas for this Defra study, noise was the second most frequent topic for referrals, in the Sacro data it is the most common topic and constitutes 52% of all referrals and 55% of mediated cases (Table 34).

VI Costs of services

- 5.1.20 The annual running cost of a service varies widely (£11,495 to £154,00 – Table 10). This probably reflects the scale of the operation and perhaps the extent to which it uses volunteers as mediators, if at all.
- 5.1.21 Data from Sacro on the costs of services for mediation in 16 of the 32 local authority areas in Scotland ranges from about £16,000 to £185,000 (Table 30).
- 5.1.22 The estimated cost per case based on providers' data varies from £90 to £900 with an average of £495 (Table 12)²⁶. Users' data (Table 24) shows average costs per case of £334 (max £503) for formal mediation and £224 (max £600) for informal in-house methods.
- 5.1.23 The wide range of costs in the providers' data is probably caused by the following factors:
- Whether the service uses volunteers or exclusively paid staff as mediators
 - Whether it operates under a SLA/Grant or is paid per case
 - Whether its response includes overheads or only the marginal costs of the case.

²⁶ Excluding the maximum value of £900 results in an average of £458.

- 5.1.24 These average and maximum values for costs of mediation are of the same order of magnitude as the values found in a 2003 study in Scotland²⁷, which reported the average cost of mediation as £204 with a maximum of £485.
- 5.1.25 Case studies for a 2005 ODPM report²⁸ also showed a wide range of costs for mediation. One landlord had access to a free service, another paid effectively £1000 per case because they had an SLA but referred few cases, while a third landlord paid £400 on a case-by-case basis.
- 5.1.26 For the current study there were only a small number of returns with data on the average cost per case of formal mediation. Consequently the average value can be affected by minimum or maximum values that are not representative of the costs for typical respondents. Thus, to provide an overview, the costs for each of the responding providers and users are presented in Chart 10. On Chart 10, Mediation Services described as a business have been shown as darker bars than the rest (which cover all other types)²⁹.
- 5.1.27 Chart 10 shows two interesting points. Firstly, although both the Providers' and Users' data show examples of very low cost services, (£90, and less than £30 respectively), typical costs were in the range £300 to £500 for both groups. The second point is that although the costs for mediation by services that operate as a business are higher than the average (considering providers' data and users' data separately), they are not the highest cost service in either group.

²⁷ The role of mediation in tackling neighbour disputes and anti-social behaviour. Alison Brown, Aileen Barclay, Richard Simmons and Susan Eley. University of Stirling (2003). As per Table 5 of this report.

²⁸ The Use of Possession Actions and Evictions by Social Landlords. Hal Pawson, John Flint, Suzie Scott, Rowland Atkinson, John Bannister, Carol McKenzie and Carl Mills. Glasgow University and Heriot-Watt University (prepared for ODPM). As per Table 5 of this report.

²⁹ Two services described as businesses by Providers were within a LA and a HA and are classified as businesses in Chart 10. Not all services described as a business in each group provided cost data.

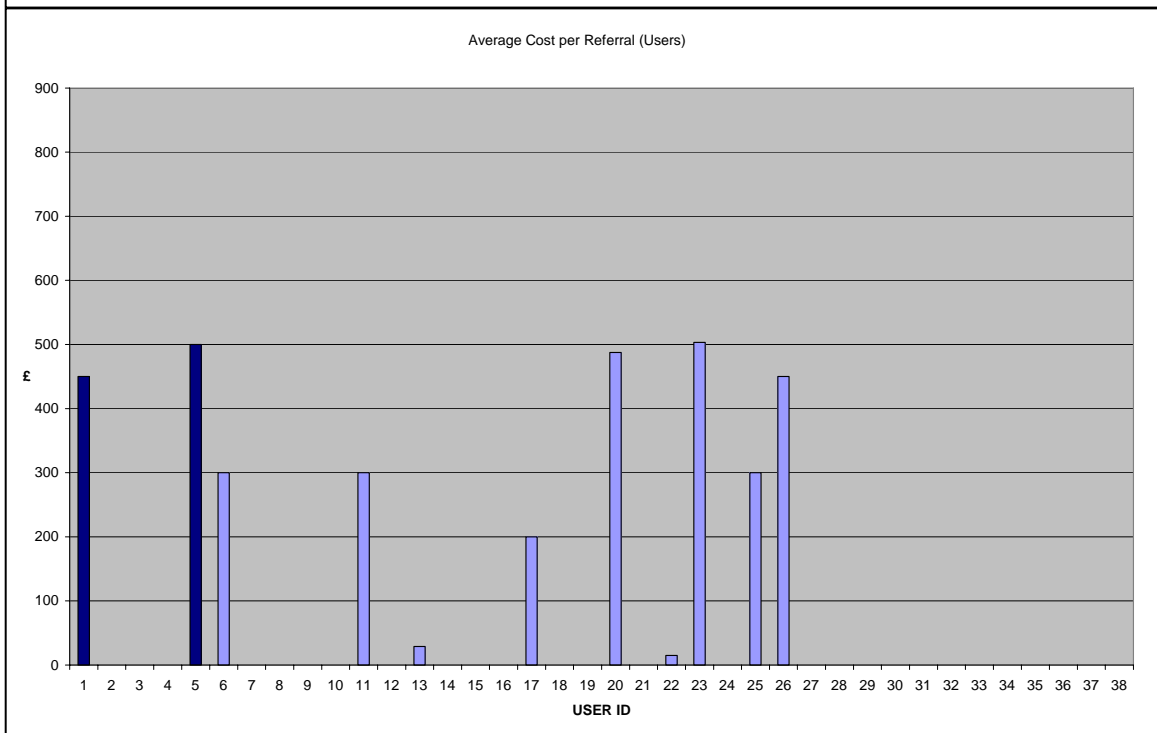
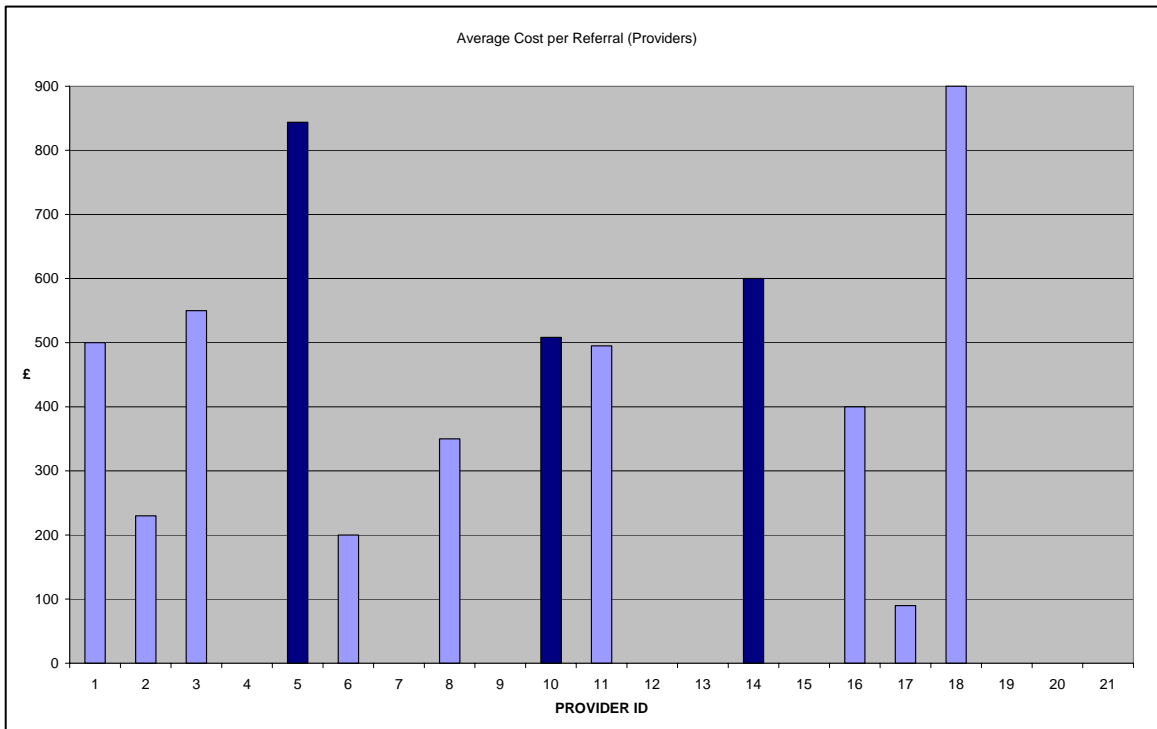


CHART 10 Average Cost of Referral – Providers’ Data and Users’ Data

Provider is a Business



Provider is not a Business



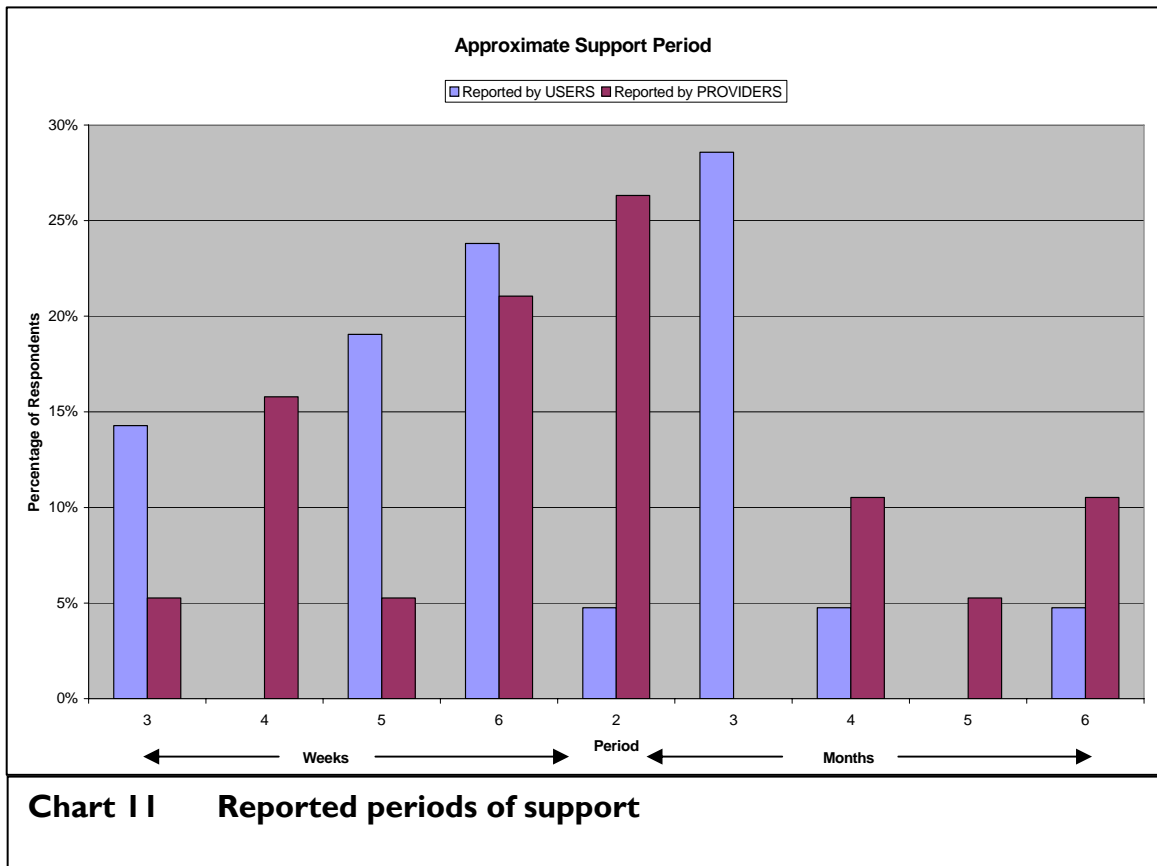
VII Cost-Effectiveness

- 5.1.28 Both Providers and Users reported their assessment of the effectiveness of mediation (Table 17 and Charts 3 and 4 - Mediators' views, Table 29 and Chart 6 - Users' views).
- 5.1.29 The average assessment of mediators is for about 50% or more of cases to have a successful outcome and some consider that 80% or more are successful (see Appendix C, for guidance on classifying outcomes). However, some providers report that only 5% or 6% of cases are resolved
- 5.1.30 Users' views are consistent with providers' views. Users also report a wide variation in the percentage of cases resolved; from 5% up to 100%. The average is around 50% or more.
- 5.1.31 Both providers and users report the average percentage of cases resolved is highest when face-to-face mediation is used than for other methods (providers 64%, users 67%). Shuttle is slightly more successful than other methods (40% providers, 45% users).
- 5.1.32 Sacro's data on outcomes (Tables 32 and 33, Charts 7 and 8) also shows a higher rate of full agreement for mediation using a 'mediation meeting' than for shuttle mediation (average values of 84% and 36% respectively).
- 5.1.33 The average percentage resolved for cases in which a mediation meeting was used (84%) is higher than was found in this study (64% and 67%), but this might be because there was a smaller variation in assessments in the Sacro data. The lowest Sacro rating was 68% whereas in this study the minimum value was assessed at 5% or 6%.
- 5.1.34 For shuttle mediation the average assessment for the Sacro data (36%) was lower than the averages found in this study – 40% (providers' view) and 47% (users' view). (However, for the Sacro data the average percentage showing an improvement when using shuttle mediation was 72%. See paragraph 4.4.13 and Table 33.)
- 5.1.35 No data were gathered from which assessment of the cost-effectiveness could be made. However, views expressed at meetings ranged from 'expensive and no guarantee of a resolution to the case', to the suggestion (mentioned above) that if the costs were correctly computed, mediation might be found to be cost-effective (in appropriate cases) and its use might release EOs to carry out other roles for which they were trained and employed.

VIII Point of Referral

- 5.1.36 Providers and users were asked to report the percentage of their cases that were referred for mediation at different stages (eg as part of initial contact, or after attempting resolution by informal means). It was found that based on the averages of the responses from providers (Table 13) that mediation was offered as part of the initial contact stage in nearly half of cases (48%) and about one-quarter (26%) after informal resolution methods had been attempted. The corresponding data from users (Table 25) shows that about one-third (30%) of cases were offered mediation in the initial stage and nearly half (49%) after employing informal resolution methods. Thus it appears that at least three-quarters of referrals are offered at these two points in the process.
- 5.1.37 There was a general agreement amongst both providers and users that early referral could increase the chance of mediation being successful by reducing the likelihood of the disputants becoming entrenched in their views (see paragraph 5.1.50 and Table 36, below). However, it was also reported that mediation could still be successful if offered after a long period (eg up to 2 years) during which the matter has not been resolved by other methods (see case study in paragraph 4.5).
- 5.1.38 Other issues related to the referral process are the pre-assessment of cases for referral, the period between referral and contact by mediation service with the parties involved, and the period of support provided by the mediation service.
- 5.1.39 From providers' data, the average percentage of cases assessed before referral was highest for Local Authorities (70%, Table 14), Housing Associations having the next highest average (47%). The average determined from users' responses (Table 26) was 97% when pre-assessment by either the referring body or another body was considered, and 86% when only pre-assessment by the referring body was included. About two-thirds (65%) of both these groups considered that pre-assessment would improve the resolution of cases (Table 36).
- 5.1.40 About half of both providers and users of mediation considered that reducing the period between a case being referred and the first contact with the parties by the mediation service would be beneficial to resolving cases (Table 36).
- 5.1.41 Half of providers responding reported that that they would normally make their first contact within 2 days and three quarters would expect to have done so in within 5 days of a referral. The longest period reported (1 respondent) was about 3 weeks (Table 15).
- 5.1.42 Nearly a quarter (22%) of users reported that the mediation service would make contact with the client(s) within 2 days of referring a case and just over one-third (37%) would do so within 5 days (Table 27). The longest period was also about 3 weeks (4 respondents).
- 5.1.43 A provider pointed out that even if a letter were despatched within 24 hours (as some services do), there could be a period of few weeks before a meeting with one or more of the parties could take place. This was because it was dependent on the extent to which the parties were committed to the process, and their availability for a meeting.

- 5.1.44 The shortest support period reported by providers was 3 weeks, and about a quarter (26% of respondents, Table 16) provided up to 1 month. The most common period was around 2 months (26%). Two services provide support for up to 6 months (11%).
- 5.1.45 More than 10% of users reported support periods of less than 1 month; nearly 40% reported support periods of 2 to 4 months (Table 28). A support period of up to 6 months was also reported by 1 user.
- 5.1.46 The support periods reported by users and by providers are compared in Chart 11.



- 5.1.47 No data on any link between point of referral and outcome was obtained.
- 5.1.48 A related issue is whether the disputants agree to take up any offer of mediation. Potential means of increasing the take-up of mediation are considered in paragraph 5.1.51.

Measures to improve overall performance of mediation

- 5.1.49 Views were also sought on means of improving the resolution of cases referred for mediation, increasing the uptake of mediation, and other measures to improve the overall effectiveness of mediation.
- 5.1.50 Mediation providers were asked whether the measures listed in Table 36 would improve the resolution of cases. Users of mediation were asked to what extent the resolution of cases could be improved by these methods.

Table 36 Percentage agreeing that specified proposals would be beneficial

Would the following improve resolution of cases (Number of responses)	Providers (20)	Users (17)
Using Mediation at an earlier stage	100%	82%
Assessing cases before referral	65%	65%
Reducing period between referral and first contact	50%	53%
Using Face to Face mediation	70%	35%

5.1.51 The suggestions for improving the take-up of mediation are reported in Appendix D. They have been classified into the measures listed in Table 37.

Table 37 Proposals to increase the take-up of mediation

Proposed method (Number of responses)	Providers (21)	Users (19)
Awareness of what mediation can do	69%	74%
Awareness of purpose of mediation	31%	26%
Appropriate funding	19%	16%
Publicity about availability of services	13%	5%
Referring all disputes in the first instance	-	11%
'Contractual/legal' issues	-	11%

5.1.52 The 'contractual/legal issues' were a suggestion from one user that there should be a signed agreement (ie to participate) with the parties prior to referral, and from another that fixed penalty notices for noise nuisance are suspended on the take up of mediation.

5.1.53 Proposals for measures to improve the overall effectiveness of mediation are also reported in Appendix D. Some suggestions are similar to those in Table 37, though there are additional issues as shown in Table 38.

Table 38 Proposals to increase overall effectiveness of mediation

Proposed method (Number of responses)	Providers (16)	Users (16)
Publicise success and purpose of mediation	31%	25%
Funding	31%	19%
Volunteer issues – ensuring supply of well-trained volunteers	31%	6%
Earlier referrals	13%	-
Training for referrers	6%	6%
Positive approach	6%	6%

Proposed method (Number of responses)	Providers (16)	Users (16)
Sharing best practice	6%	-
Quick turnaround	6%	-
'Contractual/legal' issues	-	25%
Other ideas	-	18%

5.1.54 The "Contractual/legal" issues were :

- Refusal by the complainants to agree mediation would jeopardise further action.
- Considering making it compulsory for neighbours in dispute to be referred for mediation.³⁰
- Referral to mediation is part of the ASB procedure. Perpetrators who refuse mediation but continue with their nuisance should be threatened with legal action.
- Perhaps adding it as a condition of tenancy that mediation be used when a dispute has not been resolved by other methods.

5.1.55 Other ideas put forward included showing value for money, and balancing the enforcement message with messages on tolerance and prevention.

Issues raised at consultation meetings

5.1.56 Some of the responses provided in the questionnaires we also raised at the consultation meetings. Other issues raised are summarised in Table 39.

Table 39 Mediation issues raised at consultation meetings

Issue	
<i>Reasons for refusal to take up offer of Mediation</i>	
Fear of being in same room as other party	
Complainant wishes to have their 'day in court' ie be vindicated in their view	
Unwilling to act to resolve the issue (it's the landlord's job)	
Lack of willingness to change/engage in the process (more applicable to offending party)	
<i>Other Mediation issues</i>	
External or in-house mediator	External body trusted more, or less than landlord? Complainant might regard use of external body as landlord shirking responsibility
Referrers' issues	External body seen as expensive by some. Seen as ineffective (by some)
Effect of Poor Sound Insulation	Lack of feedback to or engagement with the referring body (see text) This could be the underlying cause of problems, rather than tenant behaviour. Laminate floors could be problem and some landlords had prohibited their installation or were considering doing so.

³⁰ These cases often involve counter allegations making it difficult for landlords' staff to ascertain which party is responsible.

- 5.1.57 A particular concern for some users was that the referring body (eg the HA) did not get feedback from the mediation service as to the progress or outcome of a case. Thus, as regards the outcome of a case, they might have to rely on the lack of further complaints as constituting a ‘successful’ referral.
- 5.1.58 Confidentiality considerations by the mediation service in one case meant that when one party withdrew from the mediation process after it had been started, the referring body was not advised which party had withdrawn.
- 5.1.59 Another user found that the mediators had apparently suggested to a disputant that the landlord should be doing more to resolve their issues, which did not help to move the process forward.
- 5.1.60 Other referrers used mediators who balanced the confidentiality aspect of the work with the need to engage with the referring body both to keep them informed of progress, and to contribute to a multi-agency approach if it emerged that one was necessary.

5.2 Other issues raised at meetings

- 5.2.1 Though not directly associated with the use of mediation by RSLs, the relationship between the RSL and the LA in the area of their stock was raised under three headings:
- LA Housing Department
 - LA Environmental Health Department
 - Crime & Disorder Reduction Partnership
- 5.2.2 Some RSLs have a good relationship with their LA and in particular with the EH Department. For example, one RSL had had their staff trained in the use of noise monitoring equipment by the EH Department which lends them equipment. Some RSLs have chosen to buy their own equipment in order to provide a more rapid service to their tenants.
- 5.2.3 However, amongst examples of a non-constructive attitude by LAs, RSLs reported that:
- The EH Department regard noise complaints from HA tenants as the HA’s problem and will not visit, or wish to charge to do so.
 - Asking for a contribution towards the cost of buying additional monitoring equipment
 - In a dispute between LA and HA tenants - LA Housing Dept considered whole problem was caused by HA’s tenant
 - RSL not included in meetings of local Crime & Disorder Reduction Partnership³¹ or other multi-agency meetings even when RSL is the major housing stockholder for the area (ie more than LA).

³¹ Crime is tackled in every local area by Crime & Disorder Reduction Partnerships (CDRPs) - a combination of police, local authorities and other organisations and businesses who have banded together to develop and implement strategies for tackling crime and disorder on a local level.

- 5.2.4 There was also a view that Government policy towards the problems of anti-social behaviour was presented in such a way as to make it appear to be the responsibility of the landlord to resolve all disputes, rather than it involving any responsibility by individuals. That interpretation (by the public) of the approach tended to undermine attempts to use methods such as mediation which require individuals to engage to resolve issues, and take responsibility for their actions, rather than always relying on a third-party to resolve situations without any action on their part.

6 CONCLUSIONS AND RECOMMENDATIONS

6.1 Summary of Existing Situation

- 6.1.1 Both providers and users of mediation reported that most mediation services are independently operated, though a substantial proportion are in-house services (ie within a LA or HA). A minority of mediation providers operate as businesses, including some in-house services that take referrals from outside agencies (for which a charge is made).
- 6.1.2 There were insufficient returns to consider either the influence of geographic location or the type of tenure (LA or HA) on the take up or effectiveness of mediation.
- 6.1.3 Providers reported that on average about half (48%) of cases were referred to them as part of the initial contact with parties by the referring body whereas users reported about a third (30%) of cases were referred at that stage. However, the average assessment of these two groups for the percentage of cases resolved was very similar for a given mediation method (eg for face-to-face 67% by providers and 64% by users – see Tables 17 and 29).
- 6.1.4 Users reported a wide range of views on the effectiveness of mediation, from around 5% up to 100%³². It is not clear why this should be. Possible reasons for a low rating include referral of inappropriate cases, delay in referrals, or perhaps the level of effectiveness of the particular mediation service being used.
- 6.1.5 On the other hand, the consultation found that some users have a very positive view of the benefits of mediation and would like to use it more, perhaps being prevented from doing so by the lack of availability of services, a lack of capacity in those services, or funding.
- 6.1.6 This positive view is exemplified by the fact that some housing providers have set up in-house mediation services operated by full-time (ie not volunteer) mediators, or have trained in-house staff to provide mediation services in areas where they have housing stock but there is no existing suitable service.
- 6.1.7 No data were gathered from which an assessment of cost-effectiveness could be made. However, it was suggested in the consultation that mediation might be no more expensive (and could in some instances cost less) than using in-house resources to try to resolve a case using informal methods. It was thought that a lack of data on in-house costs might mask the true cost of an informal approach, especially in protracted cases, whereas the cost of mediation was readily identifiable as an up-front cost for each case.

³² Data from Sacro for 2005 – 2006 reported less variation in outcomes, as assessed by the ‘clients’ (ie the parties participating in the mediation process). See Tables 32 and 33.

6.1.8 The typical cost of a case referred for mediation was in the range £300 to £500. The charge by some services operating as a business (including in-house services that accepted referral for outside bodies) fell outside that range, but they were not the most expensive providers.

6.2 Funding and Data Issues

6.2.1 Funding for mediation appears to be an important factor in the effectiveness of existing mediation provision and to increasing uptake and availability in the future.

6.2.2 Clearly the availability of funding affects the viability of existing services, particularly those not in-house. They are supported by a combination of payment per case, SLAs, and grants, which may not be provided on a long-term basis³³. Consequently, it is not only existing provision that is determined by the level and type of funding. In the absence of long-term funding, planning is difficult and the number of mediators that can or should be trained can be uncertain.

6.2.3 Determining the funding requirements for mediation services is complicated by the fact that they might not only be providing formal mediation of referrals from their income. They might also undertake other related activities including supporting the training of mediators, training for referrers in assessment of cases for referral, and awareness events for referrers and the public, as well as what in Scotland is termed AGA. These activities are believed to enhance the take-up and/or effectiveness of mediation but do not attract direct funding.

6.2.4 The Chair of Mediation UK commented that administrative bottlenecks within mediation services could limit service provision. Consequently, better administration within local services would enable existing capacity (ie of volunteer mediators) to be more highly utilised. Thus, although the use of volunteer mediators might be cost-effective, there needs to be adequate funding of the support functions in order for that benefit to be realised.

6.2.5 An issue that emerged for both providers and users was the extent to which they kept data and records of the kind sought by this study. Although some respondents in both groups were able to supply figures for numbers of referrals and resourcing, in many cases no information was available regarding resourcing for mediation or the other measures used by housing providers.

³³ For example, a grant obtained to start a new service might not be available after a year or two even though a service might not have achieved viability by the end of that period.

6.3 Improving the Take-up and Effectiveness of Mediation

- 6.3.1 Users and providers both rated the use of mediation at an early stage as the proposal that would be most beneficial in improving the performance of mediation (Table 36), and about two-thirds (65%) of each group considered that assessing cases before referral would be beneficial. This factor was rated second highest by users but providers placed the use of face-to-face mediation slightly higher (70%).
- 6.3.2 Both groups rated increasing awareness (by both the public and referring agencies) of what mediation can achieve as the best means of increasing the take-up of mediation (Table 37), followed by improving their awareness of the purpose of mediation.
- 6.3.3 No single proposal emerged as a means of increasing the overall effectiveness of mediation. Providers placed equal emphasis on publicising the success and purpose of mediation, funding issues, and the provision of enough well-trained volunteers (Table 38). Users placed the first of these ahead of the second and third factors.

6.4 Other issues

- 6.4.1 Some users had found that the mediation service did not keep them informed about progress or outcomes; the potential to compromise confidentiality and independence being concerns of the provider. However, feedback from other users (and some providers) suggests that these proper concerns can be accommodated while still involving the referring agency in the process.
- 6.4.2 There was also variability in the relationship between RSLs and the LA (both the Housing Department and the EH Department were mentioned). Whereas some RSLs had a positive working relationship with these bodies, others had found that there was either no engagement or that their cases were treated less favourably than those of other occupiers/landlords.
- 6.4.3 A further concern was that Government policy (towards ASB) was interpreted by some tenants as placing responsibility on the landlord to deal with any problems between tenants not only cases of ASB (whether or not associated with a breach of the tenancy agreement) but also problems that could be characterised as relationship breakdown between the parties concerned. In such cases, the parties needed to take some responsibility in seeking a resolution of the issue, which could be assisted by mediation, but there was a refusal to do so.

6.5 Recommendations

- 6.5.1 The study found that wide variation in the degree of satisfaction that referring bodies had of using mediation services. Users were concerned not only about outcomes and costs, but also the approach of the mediation service to their relationship with the referring body. Nevertheless, some users were supporters of the use of mediation and found the services they used were satisfactory in these areas. The use and effectiveness of mediation might therefore be improved if all service providers were to achieve satisfactory ratings under the above headings by adopting the approaches used by those considered to be satisfactory by their referring bodies.
- 6.5.2 However, improved ratings for satisfaction might not only depend on spreading good practice among mediation providers. It was noteworthy that most users did not have data for the cost of the different methods of resolution considered in the study, and in particular the cost of informal in-house methods were typically not measured or recorded. Consequently, the perception that mediation was expensive could arise because informal methods are perceived as no-cost or low-cost. Better recording of cost data of other methods by referring bodies could therefore be a component in increasing the use of mediation.
- 6.5.3 One aspect of dissatisfaction was unsuccessful outcomes. Not all cases are suitable for mediation. Sacro data shows that, on average, only about a third of referrals proceed to mediation and the highest proportion recorded across the 16 areas concerned was just under half (Table 31). Although early referral of cases was rated highest as a means for improving the overall performance of mediation, assessing cases before referral was rated the second highest. Moreover, some providers have found that mediation can still be successful even if used as a last resort.
- 6.5.4 It is found that mediation is refused by some disputants, though the refusal rate is not known. Assuming that some cases where mediation is offered but not taken up are suitable for mediation, there are potentially mediatable cases not benefiting from that process. Increasing the take-up of suitable cases could therefore be a means of increasing the overall effectiveness of mediation. To achieve this requires not only that the referring body is trained in assessing the suitability of cases for mediation, but also in presenting the process to the parties concerned. Increasing awareness (by referring bodies and the public) of the potential benefits and the purpose of mediation are the two highest rated factors for increasing the take up of mediation by both providers and users.
- 6.5.5 Sacro data (Tables 32 and 33) shows that the average rate of withdrawal from mediation is low, particularly for face-to face mediation (3%; it is 12% for shuttle). However, withdrawal rates up to 45% are reported. This is clearly a waste of mediator resources. An increased understanding of the purpose of mediation might reduce the risk of subsequent withdrawal from mediation and/or ensure that parties that do not feel able to commit to the process do not embark on it. These are therefore further ways in which improving awareness of mediation could increase the overall effectiveness of mediation, albeit in a small way.

- 6.5.6 The above discussion leads to the following recommendations:
- Spread good practice amongst mediation service providers
 - Improve (cost) data recording amongst referring bodies
 - Increase the awareness and understanding of mediation among referring bodies and the public
 - Ensure that referring bodies are trained to assess the suitability of cases for mediation
 - Promote the early referral of (suitable) cases for mediation
 - Ensure that the referring body introduces the topic of mediation in an appropriate manner
 - Consider how to provide more stable funding to service providers
- 6.5.7 The costs of implementing these recommendations has not been estimated; however, practical considerations are discussed briefly below.
- 6.5.8 An important matter to decide is how to engage with mediators now that Mediation UK is no longer operating. A body appears to be required for England to carry out functions that were carried out by Mediation UK³⁴. Based on the Scottish experience, however, further tasks and activities are necessary to record the costs and effectiveness of a network of mediation providers (supplied for half the providers in Scotland by Sacro).
- 6.5.9 Further dialogue with the Scottish Mediation Network and Sacro would assist in understanding the funding level required for a nationally available service, the degree to which record-keeping protocols (for providers) can be imposed and operated, and the reasons for the apparently higher rate of positive outcomes reported there³⁵.
- 6.5.10 Engagement with mediation providers might be possible via existing groups, such as the Midlands Mediation Network, but the extent and coverage of such bodies is not currently known.
- 6.5.11 There is not a sufficient information base from the current study to determine the costs and benefits of mediation. However, in order to provide that evidence it would probably be necessary to set up a structure akin to that in Scotland to gather the data. The costs of this could be estimated following further dialogue with Sacro.
- 6.5.12 A system of that kind might need to be piloted or initially limited to eg a region or perhaps a major conurbation (eg in London, the G-15 group of users might provide a useful liaison group and have contacts with mediation providers they use in the area).
- 6.5.13 Mediation providers and users that have provided more of the data requested by the study might also be contacted to investigate why and how they collect and record that information.

³⁴ Promoting mediation, Serving and representing the needs and interests of members, Extending access to mediation, Assuring the quality of mediation services.

³⁵ The funding required to set up a system such as exists in Scotland might not only provide the support structure but enhance the effectiveness of the existing provision of mediation by encouraging the sharing of best practice among users and providers as the system was established.

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GLOSSARY and ACRONYMS

Acronym	Full Text	Definition/Description
AGA	Advice, Guidance and Assistance	Term used by Sacro to classify referrals that do not proceed to mediation.
ALMO	Arms' Length Management Organisation	Defined in S27 of the Housing Act 1985 A company owned by a LA (or in which it has a majority share) and which manages the stock on behalf of the LA. It does not own the stock and tenants enjoy the same status as they did under direct LA management.
CIEH	Chartered Institute of Environmental Health	A professional body that sets standards and accredits courses and qualifications for the education of its professional members and other environmental health practitioners. It is a registered charity.
CIH	Chartered Institute of Housing	The Chartered Institute of Housing (CIH) is the professional organisation for people who work in housing. The CIH is a registered charity and a non-profit making organisation.
CDRPs	Crime & Disorder Reduction Partnerships	The Crime and Disorder Act 1998 and the Police Reform Act 2002 place a duty on specific agencies to work in partnership within the community, to tackle crime, disorder and misuse of drugs. Sometimes called community safety partnerships they are statutorily enforced groups of police, local authorities, health authorities, probation committees and others. There are no imposed structures nor is there any assumption that the local authority or the police will lead on any aspect of work and matters like county-wide co-ordination are also left up to the partners. The act states only that NHS trusts, social landlords and parish or community councils must co-operate with partners but has a much longer list for all those who must be invited to co-operate. These include magistrates' courts, the Crown Prosecution Service, neighbourhood watch, drug action teams, public transport providers, the military police, shopkeepers, unions, religious groups and Victim Support. (Apply to England and Wales.)
EO	Estates Officer	Employee of housing provider responsible for the management and maintenance of a number of properties of mixed tenure within a geographical area.
G 15	N/A	The G15 is a group of London housing associations. They are independent social businesses that work by ploughing their profits back into building new homes, improving their existing housing stock, and developing and delivering services to their residents and neighbourhoods. They are neither part of the state nor the private sector but blend the values and skills of both.
HA	Housing Association	Defined in S1 of the Housing Associations Act 1985. A company, society or trust that is established to provide or manage housing and does not trade for profit or distribute

Acronym	Full Text	Definition/Description
		profit to shareholders.
HAT	Housing Action Trust	Defined in Part III of the Housing Act 1988 Combines role of housing provider with other duties and powers eg can carry on a business (such as a shop), and can act as the planning authority in its designated area. Classified as a public sector landlord.
HO	Housing Officer	Employee of housing provider responsible for the management and maintenance of a number of properties of mixed tenure within a geographical area.
HT	Housing Trust	Defined in S2 of the Housing Associations Act 1985. Charitable association providing or managing housing.
LA	Local Authority	A unitary, county, metropolitan or district council.
LGO	Local Government Ombudsman	The Local Government Ombudsman investigates complaints of injustice arising from maladministration about most council matters including housing, planning, education, social services, consumer protection, drainage and council tax. It is an independent, impartial and free service. The Ombudsmen can investigate complaints about how the council has done something.
LSVT	Large Scale Voluntary Transfer	Power provided in Housing Act 1988 Unlike an ALMO, the ownership of the LA stock and the tenancies are transferred to the new body.
NHF	National Housing Federation	The National Housing Federation represents 1400 independent, not-for-profit housing associations in England and is the voice of affordable housing.
PFI	Private Finance Initiative	The Private Finance Initiative involves the private sector in the financing and building of public infrastructure such as hospitals and in the delivery of public services.
	Presenting Issue	Topic on which the complaint or dispute is based (eg noise, car parking, children). Note that a case might exhibit more than one issue; alternatively, the topic(s) put forward as the presenting issue(s) might not be the fundamental basis of the problem.
RSL	Registered Social Landlord	Defined in S2 of the Housing Act 1996. RSLs must be registered with the Housing Corporation. All HAs registered at the time the defining section in that Act came into force, became an RSL. New HAs must go through a registration process to become RSLs.
Sacro	Safeguarding Communities – Reducing Offending	Sacro aims to promote community safety across Scotland through providing high quality services to reduce conflict and offending. It is committed to developing new and innovative ways of working and influencing the development of Government policies and of legislation. It provides services in conflict resolution, criminal justice and youth

Acronym	Full Text	Definition/Description
		justice based on the values of mutual respect, recognising and valuing diversity, personal responsibility, society's responsibility to all its members, capacity for change and to work together to reduce conflict and repair harm. Sacro also provides consultancy and training services.
SLA	Service Level Agreement	Contract between mediation provider and user to provide service base don an annual cost rather than on a case by case charging system.
SLCNG	Social Landlords' Crime and Nuisance Group	The Social Landlords Crime And Nuisance Group (SLCNG) is the leading housing-based group focusing on nuisance and anti-social behaviour. The group grew from a housing conference in 1995 where a method for sharing ideas and lobbying on nuisance and anti-social behaviour was identified.
TMO	Tenants' Management Organisation	Introduced in S137 of the Leasehold Reform and Urban Development Act 1993. A TMO is a company run by a Board of residents. The Right To Manage (RTM) was introduced in 1994 and allows tenants and leaseholders in England and Wales to set up a TMO. The TMO can take on a package of Housing Management responsibilities for a particular estate or area after entering into a Management Agreement with the Local Authority.

APPENDIX A

Information Request Form for USERS of Mediation (eg Housing Practitioners)

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise

FOR USE BY MEDIATION SERVICE USERS

0 Organisation and location	
LAs covered	
Contact name/details	

Type of service

		How Many
1	What kind of Mediation Service(s) do you have access to, if any (if more than one in a category, please enter number)	External, within LA
		LA in-house
		Own in-house service
		Independent with SLA's
		Independent, and grant supported
		Constituted not-for-profit
		A business
Other		
2	Is the service funded by (if more than one in a category, please enter number)	LA(s)
		Your organisation under an SLA
		Your organisation on a case by case basis
		Other funding

Caseload and Resourcing

3	How many tenancies does your organisation manage (ie in your region)	
4	How many are in areas having access to Mediation Services	

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise

FOR USE BY MEDIATION SERVICE USERS

5 How many cases are dealt with each year in the following ways

Where the presenting issue is -->>	Noise	ASB	Other
Informal, in-house			
Formal Mediation (in-house or external)			
ABC			
Notices seeking Possession			
Injunction			
ASBO			
Eviction			
S80 Environmental Protection Act (ie via LA)			
Other			

6 What is the average resourcing required per case for these methods

	Staff hours	Cost
Informal, in-house		
Formal Mediation (in-house or external)		
ABC		
Notices seeking Possession		
Injunction		
ASBO		
Eviction		
S80 Environmental Protection Act (ie LA)		
Other		

Process and Approach

7 At what stage are referrals made (eg 10% As last resort, etc)

	Noise	ASB	Other
Offered in initial contact			
After other informal methods			
Before court/legal action			
As last resort			

8 Are cases assessed for suitability before referral for Mediation

By your organisation		By	
----------------------	--	----	--

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise
 FOR USE BY MEDIATION SERVICE USERS

	others	
--	--------	--

9	Are some situations not accepted by the service(s) you use eg cases involving violence, drugs, or criminal behaviour	Please list situations		
10	What is the typical period before the service contacts the parties after a referral			
11	What is the typical duration of support for each case by the Mediation Service			
12	What Mediation method(s) do the Mediation Services use (if known)	Shuttle Face to Face Shuttle leading to Face to Face Other		

Your Experience

13	What percentage of cases do YOU consider are resolved		Noise	ASB	Other
	<i>Shuttle (if known)</i>				
	<i>Face to Face (if known)</i>				
	<i>Shuttle leading to Face to Face (if known)</i>				
	TOTAL FIGURE				

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise
FOR USE BY MEDIATION SERVICE USERS

14	To what extent do you think that this could be improved by	Assessing cases before referral	
		Using Mediation at an earlier stage	
		Reducing delay between referral and contact	
		Using Face to Face mediation	
15	How do you think that uptake of Mediation could be increased		
16	What else could be done to improve the overall effectiveness of Mediation in resolving neighbour disputes		

APPENDIX B

Information Request Form for PROVIDERS of Mediation Services

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise

FOR USE BY MEDIATION SERVICE PROVIDERS

0 Region (and LAs covered)

Please enter LA areas covered (even a service is not provided to the LA in question)

→

Type of service

		YES
1	Is your service (tick all that apply)	
	Within a LA	<input type="checkbox"/>
	Within a HA	<input type="checkbox"/>
	Within an ALMO	<input type="checkbox"/>
	Independent with SLA's	<input type="checkbox"/>
	Independent, and grant supported	<input type="checkbox"/>
	Constituted not-for-profit	<input type="checkbox"/>
	A business	<input type="checkbox"/>
2	Is your service used by	
	LAs for their own tenants only	<input type="checkbox"/>
	LAs for all tenants	<input type="checkbox"/>
	LAs for any resident	<input type="checkbox"/>
	HAs	<input type="checkbox"/>
	Police	<input type="checkbox"/>
	Other bodies	<input type="checkbox"/>
	Self referrals	<input type="checkbox"/>
3	Does it have an SLA with (for LAs please specify which department(s))	
	LAs	<input type="checkbox"/>
	HAs	<input type="checkbox"/>
	Police	<input type="checkbox"/>
	Other bodies	<input type="checkbox"/>
4	Does it supply ad hoc support t for LAs please specify which department(s))	
	LAs	<input type="checkbox"/>
	HAs	<input type="checkbox"/>
	Police	<input type="checkbox"/>
	Other bodies	<input type="checkbox"/>
	Self referrals	<input type="checkbox"/>

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise

FOR USE BY MEDIATION SERVICE PROVIDERS

5	What is the split of funding dealing directly with neighbour mediation (eg 25% LA SLA, etc)	Please supply details	
---	---	-----------------------	--

6	What is your annual funding (from all sources)	For neighbour Mediation	
		For all types of Mediation offered	

Caseload and Resourcing

7	How many referrals do your receive per year from ---->>>>> (for LAs please specify which department(s))	Where the presenting issue is -->>		Noise	ASB	Other
			LA			
			HA			
			Police			
			Other bodies			
			Self referrals			

8	How many (neighbour) referrals could you accept per year (assuming necessary funding)		
---	---	--	--

9	What is the average resourcing required per case	Staff hours	
		Cost	

Process and Approach

10	At what stage are referrals made (eg 25% Last resort, etc)	Offered in initial contact by referring body	
		After other informal methods	
		Before court/legal action	
		As last resort	

11	What % of cases are assessed for suitability by the referring agency (for LAs please specify which department(s))		
		HA	
		Police	
		Other bodies	

Defra Study on Use of Mediation by Local Authorities and Housing Associations

The study is concerned with neighbour mediation, primarily noise

FOR USE BY MEDIATION SERVICE PROVIDERS

12	Are some situations outside your service provision eg cases involving violence, drugs, or criminal behaviour		
13	What is the typical period before your first contact after a referral		
14	What is the typical duration of support for each case		
15	What method(s) do you employ (% of referrals for each)	Shuttle Face to Face Shuttle leading to Face to Face Other	
16	What percentage of cases do you consider are resolved	Shuttle Face to Face Shuttle leading to Face to Face Other	
17	Would the following improve resolution of cases	Assessing cases before referral Using Mediation at an earlier stage Reducing period between referral and first contact Using Face to Face mediation	

Your Experience

18	Are referrals from some agencies more likely to be resolved and, if so, why	
19	How do you think that uptake of Mediation could be increased	
20	What could be done to improve the overall effectiveness of Mediation in resolving neighbour disputes	

Mediation UK Outcome Codes – Guidance for Sacro Services

The new Mediation UK outcome codes as from 1-4-04 are as follows:

1. *Full Agreement*
2. *Improvement*
3. *Withdrawal by one or more party*
4. *Closure due to irreconcilable differences*
5. *Other*

Mediation UK's guidance notes on the new codes state the following:

- a) Outcomes recorded should wherever possible be as defined by the parties themselves.
- b) Where it is not possible to make contact with one of the parties, or where they reject the offer of mediation from the outset, this should be recorded as an enquiry rather than a case.
- c) "Improvement" should be used where both parties feel the situation is better than prior to the mediation intervention, either due to increased quality of communication, better understanding, or some other reason.
- d) "Withdrawal" should be used where a party withdraws from the process itself e.g. because they see no value in continuing, rather than because either party is moving house or for some other reason not directly related to the process. The latter examples should be recorded under "Other".
- e) It is expected that very few cases will be classified as "Other".

The following points should also be taken into account when classifying outcomes:

- 1) Code 1. – *Full Agreement* should be used where the parties consider the issue to have been substantially resolved. Inevitably, this will sometimes be a matter for individual judgement, but the following should be taken into account: if the main issue has been resolved but a secondary and much less important issue remains unresolved (and both parties agree it is much less important), then you should code the case as outcome 1; where subsidiary issues have been resolved but the main issue remains unresolved, the case should be coded as outcome 2
- 2) Where one party considers there is a satisfactory outcome and the other does not, you should code the case as 4. A mediation agreement, by definition, requires both parties to agree!
- 3) Where one party considers there has been an improvement and the other does not, this should similarly be classified as 4.
- 4) On rare occasions, for instance where one party is difficult to get hold of (e.g. they work away from home a lot), you may only be able to establish the view of one party as to the outcome. This view should generally be accepted, as it is the best evidence available to you.
- 5) The outcome should be decided when the case is closed, normally either when shuttle activity by the mediators has concluded or following a mediation meeting. If the agreement is that there will be a review in a specified period of time, then the agreement should still be treated as conclusive, and the case closed. If, following this, the parties want renewed intervention by the mediators this should be classed as a new case. This has to be distinguished from cases where, for instance, a mediation meeting is agreed to be held in two stages, or where shuttle results in both sides agreeing to leave things for a couple of weeks to see what happens, and then decide whether further intervention is necessary – in both these situations, the case should be closed at the agreed date.
- 6) If there are cases where you remain uncertain about the appropriate classification, please contact the Mediation Adviser.

ID Q19 - How do you think that uptake of Mediation could be increased – PROVIDERS' RESPONSES

- 1 Better publicity of services. They put up home made posters in Library/Council offices Basic Website
 - 2 Funding/awareness of HA/LA/Police staff and other agencies & public awareness of what mediation can do. Recent changes in high hedges legislation, for example, requires people to try mediation but there is no support for services to provide such an additional service and people's understanding of the purpose of mediation is not clear, so they are resentful and 'anti' before they make contact.
 - 3
 - 4
 - 5 Raising awareness
 - 6 More support from local authorities and central government. A wider understanding of the huge benefits of mediation
 - 7 More development work in some areas of the community
 - 8 Increase awareness of mediation throughout the community
 - 9 Better awareness of mediation and people's desire to resolve situations themselves rather than someone do it for them.
 - 10 Raised awareness. Better understanding of mediation by referrers.
 - 11 Yes
 - 12 Through word of mouth, positive experiences
 - 13 More public awareness of what it is and its benefits so people can refer at earlier stage.
 - 14 In the first place, by providing proper mainstream funding for it! Then by making the public aware that it's not necessarily about meeting with the other person, and that the mediators will first talk to both parties
 - 15 Making people aware that this type of service is available + compulsory for certain homelessness approaches. Conferences or info sessions in schools. 'Peer link' is a good way of letting young people know about mediation.
 - 16
 - 17 media
 - 18 Awareness
 - 19 Greater understanding of the value of mediation within agencies/departments/general public
 - 20
 - 21 Raise awareness of what it is – callers are unsure, fear of meeting disputant. LAMP gives talks to HOs and at TA meetings and presentations, workshops & events to explain and raise profile of Mediation
-

ID Q20 - What could be done to improve the overall effectiveness of Mediation in resolving neighbour disputes – PROVIDERS' RESPONSES

- 1 Good training and willing and dedicated volunteers. Good links with local volunteer organisations to get supply of volunteers to be trained
 - 2 Longer term funding to ensure the availability of well trained, qualified & available staff & volunteer to deal with requests for help/support. A recognition that a massive publicity campaign is needed to raise the profile (& success) of mediation/restorative justice etc, rather than letting there be a scatter-gun approach which can trigger a huge 'anti' approach because the full story & purpose is not explained.
 - 3 Could be promoted and used as the first course of action in the mainstream
 - 4
 - 5
 - 6 More financial support to enable ongoing training and further incentives for volunteers
 - 7 Members of the public being aware of what mediation is so have a better understanding of what to expect. Good quality training for mediators. More training for referring staff as to what makes a good case.
 - 8 Earlier referrals and quality of volunteer mediators
 - 9 Increased awareness of mediation and increased government funding
 - 10 Promote mediation.
 - 11
 - 12 Positive approach from referral to the end of the process
 - 13 We don't do neighbour disputes.
 - 14 Sharing best practice between mediation services and with referring agencies, to ensure awareness of the range of approaches that mediation covers, and also the place of mediation alongside other (e.g. prevention and enforcement) approaches.
 - 15
 - 16
 - 17 Quick turnaround
 - 18 Increased resources
 - 19 Education of general population, understanding of value of early intervention in agencies.
 - 20
 - 21 Raise awareness of what it is – callers are unsure, fear of meeting disputant. LAMP gives talks to HOs and at TA meetings and presentations, workshops & events to explain and raise profile of Mediation
-

ID Q15 - How do you think that uptake of Mediation could be increased – USERS' RESPONSES

- 1 Promotion
- 2 A signed agreement with the parties prior to referral.
- 3
- 4 More effective marketing
- 5 Tenant awareness
- 6 Raising staff Same awareness
- 7 Suspend fixed penalty notices for noise nuisance on take up of mediation. Keep as a free service. Publicise successful case outcomes.
- 8 Referring all disputes in the first instance
- 9 Able to refer more cases
- 10 Promotion & awareness of success stories
- 11 To train Estate Manager on what is mediation, so that they can sell it to the customer
- 12 MORE PUBLICITY AND ALL OFFICERS CONSIDERING IT SERIOUSLY IN ALL CASES
- 13
- 14 No budget restrictions
- 15 Better understanding generally about what mediation is and how it works
- 16 Y
- 17 Difficult, most people are not keen on mediation and would prefer that we sort their problems out for them rather than they have an active role.
- 18 Positive publicity – educating front line staff of benefits – don't have to have both residents meeting face to face! Publicising successes – publishing reputable companies – publicising free services by LA's – Government promotion and backing as preventative tool.
- 19
- 20 Yes
- 21
- 22 Advertising
- 23 Regular staff training – from users prospective with specific techniques on how to encourage tenants to agree to mediate specific procedure on how to make referrals – what the service provider can expect from us and what we expect from the service provider
Promoting “mediation first” as part of our tool box approach to dealing with ASB
Advertising the service by giving information at sign-up, posters/literature available in all our offices etc.
- 24 Additional advertising of service
- 25 Wider publicity through news/press. Most of the general public wants ASBO's as they hear about them in the news.
- 26 By advertising or promoting the services via Residents' Newsletter and Meetings
- 27 Staff training and better liaison
- 28
- 29 Make it compulsory for both complainant and alleged perpetrator

ID Q15 - How do you think that uptake of Mediation could be increased – USERS' RESPONSES

- 30
 - 31 Better & earlier assessment by mediators
 - 32 Using it earlier in the ASB process
 - 33 Improve publicity and awareness
 - 34
 - 35
 - 36 Different publicity
 - 37 More advertising about the success of mediation and the different methods that can be used. People involved in ASB are wary of mediation because they think they have to face the complainant/perp.
 - 38 Educating officers and general population in the process and it's effectiveness
-

ID Q16 - What else could be done to improve the overall effectiveness of Mediation in resolving neighbour disputes – USERS' RESPONSES

- 1 Increase in Mediation providers
2 Refusal by the complainants to agree mediation Would jeopardise further action
3
4 People, need to understand what mediation is
5 Showing value for money. Show it on 'Corrie' or 'Eastenders' not 'Neighbours from Hell'
6 Better use of service
7 Increase customer awareness and balance enforcement message with messages on tolerance and prevention.
8 Refer sooner
9 Inform residents of the effectiveness of mediation services.
10 Give more support, increase joined up advertising & get more people to 'buy into it'.
11
12 PUBLICISE SUCCESS STORIES. MAKE PEOPLE MORE AWARE OF WHAT MEDIATION IS AND WHAT IT CAN ACHIEVE
13
14 Discussing the referral with the Housing provider to assess its suitability for mediation in the first instance.
15
16 We're also looking into whether to make it compulsory for neighbours in dispute to be referred for mediation. These cases often involve counter allegations making it difficult for our staff to ascertain which party is responsible.
17 More people willing to use the service.
18 Effectiveness of our mediation service is the approach of dealing with both parties individually and not expecting them to meet face to face. Also being, swift to contact and a service which liaises closely with the referring agency keeping them informed.
19
20 Referral to mediation is part of the ASB procedure.
 Perpetrators who refuse mediation but continue with their nuisance should be threatened with legal action.
21
22
23 Our service provider uses volunteer mediators, who mediate in their spare time. This can cause delays, if enough mediators are not available when required. However, our service provider has recognised this and has employed mediators, rather than relying solely on trained volunteers.
24 Perhaps adding it as a condition of tenancy that mediation be used when a dispute has not been resolved by other methods.
25
26 Training Housing professionals to mediate and give an in-house service. LA funding more accessible centre
27 More cost effective in-house mediation
28
29 Advertised in media etc. Educating the public.

ID Q16 - What else could be done to improve the overall effectiveness of Mediation in resolving neighbour disputes – USERS' RESPONSES

- 30
- 31 More feedback throughout the process
- 32
- 33 It needs to be introduced at an earlier stage
- 34
- 35 Courts to insist that mediation be tried before redress to legal action otherwise no action in court
- 36 Early intervention, more publicity to tenants, breaking down barriers regarding what mediation is all about. More referrals by other departments. Suggestions from estate managers are : selling the service better – customers see it either as a fob off or something that won't help their situation / customers feel being in same room as their adversary is off-putting / some cases are refused by mediation as unsuitable & this could be identified earlier before offered as a solution /
- 37 When cases do go to mediation they are usually resolved effectively.
- 38
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