

A GUIDE TO NEIGHBOUR/COMMUNITY MEDIATION

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Modern living, whether urban, suburban or rural is full of stress, and more and more people view their home as a place of escape or sanctuary. When this sanctuary is invaded, either by noise or other means, conflict will frequently result. Add to this the problems caused by much of modern building construction (inadequate soundproofing, poor estate design, space constraints), a sharp increase in the ownership of noisy domestic appliances, and a mobile society where people sometimes do not even know who their neighbours are, and we have an incendiary mixture which is bound to burst into flames on occasion.

This article describes the resolution of a typical neighbour dispute by mediators. Community mediation is a frequently used and highly successful way of assisting neighbours and groups of people in neighbourhoods resolve a wide range of conflicts. Community mediation in Scotland has grown considerably in the last ten years, and there are now services covering almost the whole of the country, from large urban conurbations to the Highlands and Islands.

Case study

The Gallaghers live on a mixed estate on the fringes of Edinburgh. Twenty-five years ago, Rainhouse Park was considered one of the more desirable council estates in the city: people could wait half a lifetime before being offered one of its three bedroom, semi-detached houses. Following the introduction of the "right to buy" legislation, most of the properties quickly sold and now only a handful are owned by the council. Some of the purchased properties have now been rented out to private tenants and recently there has been an increase in tension between residents.

Jim Gallagher works irregular shifts as a cab driver. He was born and raised in the same house, inheriting the tenancy on his Mother's death in 1989. Shortly after this he got married to Sheila and they bought the house from the council at a good discount. The Gallaghers have three children: twin boys aged fifteen and a five-year old girl just about to start school. They get by, but bringing up children is expensive and Sheila works part-time at the local pub some nights if Jim's shifts allow it.

Last year the McPhails and their two sons rented the house next door to the Gallaghers from a friend. Things were tricky right from the start when they held a housewarming party that lasted until 5am. Pretty soon it felt to the Gallaghers as if their lives had been taken over by the McPhails. There were fights between the children, late sessions every weekend and a bad-tempered argument between Sheila Gallagher and Maggie McPhail.

The tension moved up a gear when, after an all-night shift, Jim came back in a combative mood and decided to get his own back. He started to play football songs at deafening volume, waking up both his own family and the McPhails. Liam McPhail came to the Gallaghers door and asked politely if Jim could turn it down, but was told "If you don't like it, **** off back where you came from."

That afternoon Maggie and Liam reported the situation to the local police and were advised to try mediation. It didn't sound very hopeful to them. The police officer said it was voluntary and that the mediators didn't take sides, they just helped everyone to understand each other's point of view and maybe come to an agreement. He said that funnily enough, it usually worked, so they reluctantly agreed to give it a try.

Three days later they got a phone call from the local community mediation service explaining things in more detail. The mediator sounded alright, so they agreed to see him and his colleague and gave their permission for the mediators to contact the Gallaghers.

At first Jim and Sheila Gallagher were furious about getting a letter from the mediation service, but when they had calmed down and actually read the letter properly, it was clear that no-one was being blamed for anything. Sheila eventually persuaded Jim that they had nothing to lose by giving it a go.

The following week two mediators arrived and they explained they had already seen the McPhails but now wanted to find out what Jim and Sheila felt might be a good way forward. Jim warmed to them despite his misgivings; they were good listeners and seemed to have a practical, down-to-earth approach to things. Jim and Sheila were surprised to hear that the McPhails had agreed to a meeting with them and the mediators in the local library, and surprised themselves even more by saying they would come along too. The mediators explained that meetings like this had a very good success rate—about 80 to 90 per cent—and that it was their job as mediators to make sure everyone got the opportunity to both speak and listen and to help everyone work out what they would like to see happen in the future.

In the week leading up to the meeting things seemed to improve of their own accord; both the McPhails and the Gallaghers kept the music low and both sets of parents sat down with their children to talk about the situation. Everyone was very apprehensive about meeting up, but reassuring phone calls from the mediators settled them a little. Jim and Liam even managed to say hello without scowling at each other.

At the mediation meeting the McPhails started off by saying what had happened from their viewpoint and what they'd like to see happen. Liam began by saying how sorry they were about the way things had turned out and admitted that the party on the first night of their tenancy had been utterly inappropriate. Maggie went on to explain that their two boys were frightened of the Gallagher twins who had been calling them names and making cut-throat signs at them. She said they were trying to make a fresh start away from their previous neighbourhood where you could not let the

children out to play safely but no one had minded a bit of music. Liam said he was prepared to guarantee that any weekend noise would now stop at 10pm as they had had his cousin staying who was a “bit of a party animal” but he had just moved out.

When Jim and Sheila had their turn, they explained how their lives were really busy just struggling to make ends meet, so regular sleep was really important to them. Jim apologised for his outburst, saying it had been “well out of line” but he’d been at his wit’s end. He guaranteed that any further bad behaviour from the twins would be nipped in the bud. Sheila backed him up on this explaining she had had no idea it was happening.

After both families had a chance to speak, the mediators opened things up for discussion. It quickly became clear that both sides had a lot in common: Liam had also been a cab driver for a while, and everyone agreed that bringing up children well was a real struggle. The mediators helped them decide acceptable noise levels and how the couples would communicate in future if problems occurred. They also offered to bring the older children together to help them get on better with each other.

At the close of the meeting everyone was relieved that so much ground had been covered and that things were back on an even keel. Jim said the meeting had made him realise how easy it was just to react without thinking and make things worse. Liam admitted he was a little ashamed of how selfish he had been. The mediators congratulated them all for dealing with the conflict so positively and agreed to contact them all in three months time to see if the agreement was still going well.

Background of community mediation in Scotland

Not so long ago the McPhails and Gallaghers would have had to resolve their dispute in some other way. Or if the conflict had grown unchecked, as these conflicts often do, one or more of the parties may well have ended up with a police record. It was dissatisfaction with the formal means of resolving such conflicts—treating the symptoms rather than the underlying causes—that led to the establishment of Edinburgh Community Mediation Service in 1995, which was a joint venture between Sacro and local agencies. The project quickly became championed by local community groups, police, housing officials and others, as well as being supported by the major political parties. As it established a track record for the resolution of neighbourhood conflicts across the city, the model began to be replicated in other areas, beginning with services in Dundee, Fife, and Falkirk.

This process of growth was boosted by the (then) Scottish Executive which funded Sacro to establish the Community Mediation Consultancy and Training Service. This initiative was charged with assisting Scottish social housing providers in developing the provision of mediation across Scotland, to establish and promote best practice and to produce publications on all aspects of mediation in a neighbourhood context. At the same time, the Scottish Executive introduced a funding stream (Building Safer, Stronger Communities) which further assisted local authorities in financing neighbourhood mediation; by 2007 thirty of the thirty-two Scottish local authority areas had mediation services, managed in-house, by Sacro, or in one case by a local voluntary organisation.

Community mediation is now a widespread and well-established tool for dispute resolution in Scotland, with thousands of neighbour disputes having been handled by mediators. Most cases involve two sets of neighbours, but some involving whole neighbourhoods of fifty to a hundred or more households. All the services are listed by location on the Scottish Mediation Network website under “find a mediator”.

Community mediation has its own accreditation scheme developed by the umbrella body, the Scottish Community Mediation Network and mediation is built into many local authority procedures. Services will differ in the detail of their practice but the majority will take referrals from local police, housing departments, environmental services and a range of other agencies, as well as from people directly involved in disputes themselves.

Mediation services usually only need one party in the dispute to agree to try mediation. It is part of the mediator's job to help the other party agree to participate: something they generally manage very successfully. Mediators meet both of the parties, usually in their homes, and explain what mediation involves. They will listen to their description of the dispute, including its origins, the current situation, how they feel about it, what they would like to see happen, and whether they would be prepared to meet the other neighbour in a mediation meeting. Some disputes are settled at this point, without proceeding to a mediation meeting, through a simple process of talking over options and giving advice to people on how to manage the conflict themselves. In many other disputes, however, the conflict has reached a stage where only the full mediation process will resolve it.

Trends in community mediation

A recent notable trend in community mediation in Scotland has been the willingness of services to widen their area of involvement. Although individual neighbour disputes remain the major area of activity, many services now provide mediation for young people threatened with homelessness and their families, mediation in a workplace context, mediation between organisations, and a wide range of school-based work.

Large group mediations in particular are becoming increasingly frequent. Community mediators now regularly handle conflicts which are affecting groups in the community; these range from issues between several residents in a tenement stair, disputes affecting a whole street, or situations which are district-wide and involve a hundred or more people.

This last development is likely to be of particular relevance to the future direction of community mediation in Scotland. As a tool for intervention in situations of individual conflict, mediation uncovers practical solutions, demonstrates more positive forms of communication, reframes contentious issues into shared problems, and often gives disputants a different perspective on the actions of themselves and their immediate neighbours. This in itself will have an impact on the general well-being of communities. Fewer individual conflicts means more energy is available for other things since people who are under the immediate pressure of such conflicts are often unlikely to be able to look further than their own back fence.

In recent years, however, Scottish community mediation services have increasingly realised that individual casework is only a part of the answer to the incidence of destructive conflict in Scottish communities. For people with little power or status, living in poverty and in poor housing conditions, the problem with their neighbour may be low on their list of priorities: something they can afford to expend only limited energy on. Some critics of mediation have taken this argument further, by accusing it of shoring up injustice by a tacit acceptance of the power imbalances inherent in society. In this argument, community mediation is seen as encouraging deprived groups to accept situations which should not be tolerated. In the case of council tenants on an estate where the soundproofing is completely inadequate, such critics would argue that to assist neighbours to come to agreement about their respective levels of living noise is not only failing to identify and deal with the real problem, but is hindering any effective action by focussing the issue on the behaviour of the individuals rather than the responsibilities of the landlord. In other words, as long as mediation focuses exclusively on individual issues, it cannot be said to be assisting in the development of strong, positive and equitable communities.

But how far should community mediators assist in the development of strong, positive and equitable communities? Mediation is sometimes viewed as a completely neutral process, unaffected by either the beliefs of the

mediator or those held by the disputants. Moreover, it is often further claimed to have no interest in or views on the agreements reached and the situations of people in conflict. Indeed some mediators hold that any general consideration of the justice or injustice, equity or inequity of groups in the community is no concern of theirs.

This "neutral" and "individualised" model of conflict resolution is, however, being challenged. Most Scottish community mediation services are increasingly arguing that in order to deal with the roots of neighbourhood issues, the conflicts between larger groups in communities need to be resolved as constructively as possible, and that mediation is able to ensure disadvantaged groups have a voice. These mediation services view community mediation as growing into a key component in broader concerns of community development, and an option of first choice in helping the most challenged communities turn themselves around by working together to make their views heard effectively. The challenge ahead for community mediators in Scotland may be to contribute meaningfully to the strengthening and development of disadvantaged groups and communities while retaining their impartial role in the resolution of individual conflicts.