



Scottish Parliament Finance Committee

Call for Evidence – Prevention

The potential of mediation and mediation skills to help build a more collaborative and preventative culture

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This note is a response to the call for evidence on the progress being made in reforming Scotland's public services and delivering the decisive shift towards prevention. It focusses on the contribution that the use of mediation and mediation skills can make to addressing three of the questions posed by the Committee:

- Why has the progress of reform proposed by the Christie Commission been so slow?
- What are the main barriers to change and how do we address them in order to accelerate the rate of progress?
- How do we ensure that the necessary culture change and greater levels of integration takes place?

Progress towards some of the reforms proposed by the Christie Commission was always likely to be slower than hoped for, not least because they required public services and those that work within them to take a fundamental change of direction from a focus on solving immediate problems to one of preventing problems and realising potential. Reshaping a system and culture which had developed around a problem solving mind-set along with associated objectives, organisations, structures, governance arrangements and incentives was never going to be easy or quick.

In many respects present problems are easier to identify and focus attention on than what might/could be in the longer term. Problems are much more manifest in the short term and will command attention and action. Not surprisingly they tend to dominate political agendas. It's difficult to give priority to something that might in theory have a higher payback in the future if in practice an urgent crisis is demanding attention. The emphasis on what is urgent can detract from focussing on what is important.

The benefits of preventative spend (perhaps better framed as investment) are by their very nature achieved further into the future and are less easy to measure in the short term. As such, discount rates are applied explicitly or implicitly when assessing it. Even if a very low discount rate is used in any considered assessment, subconsciously it is likely to have an effect on decision making.

There are likely to be other “cognitive biases” at work, which will influence understanding and decision making. For example, loss aversion (valuing potential losses more highly than possible gains) may well play a key role in any process of change, leading people to be protective about what they currently have and might lose. System inertia can operate in the same way and lead to preservation of current paradigms. We can be wilfully blind to the obvious need for change. The forces of incumbency are strong.

Being alive to the biases that may be influencing judgements and decisions will be crucial in building stronger collaboration between organisations and individuals. This is where using the skills of mediation can help people to speak frankly about these things and make explicit thinking that may be subconscious.

A more collaborative approach between and within organisations in pursuit of outcomes which go beyond the ambit of any one part of the public sector is key to progress on prevention. Many public sector leaders in Scotland appear to understand the needs and opportunities offered by a more collaborative approach, at least at a conceptual level, and are already engaged in work which crosses traditional boundaries.

There is a big opportunity to build on the positive attitude of many leaders by supporting those who are willing to experiment with how things are done to generate real change. A number of steps can be taken:

- providing practical support to put ideas into action and build confidence at a time when the pressures of the job are going to be even more intense
- sustaining a collaborative culture when the going gets tough
- supporting the development of a more collaborative approach throughout an organisation
- overcoming defensiveness generated by uncertainty and the demands of accountability
- avoiding a tendency to focus too much on governance and structures and instead building strong working relationships and ensuring that issues are addressed in a robust yet respectful way
- breaking down suspicion between the public, private and third sectors

- avoiding short-termism
- ensuring that the next generation of leaders is given the skills and permission to do things differently

Building better relationships, ensuring good communication and real understanding, looking for creative solutions and managing conflict are essential components of more productive collaboration. These elements are the essence of effective mediation. They are also essential for effective leadership, not least when resources are tight and significant change is demanded. Mediation and mediation skills adopted by leaders can play a key role in helping develop an innovative, collaborative and preventative culture, built on strong and supportive relationships.

We argue that increased collaboration through mediation can make an important contribution to the overall productivity and economic performance of a country through reducing transaction costs and achieving better outcomes, more quickly and at lower cost. In other words, preventative spend - or more bangs for less bucks. A country that builds a reputation as a place where collaboration is encouraged and disputes are minimised and resolved quickly, creatively and cheaply is likely to be a more attractive place to work and invest in.

Using mediation as a method of improving relationships and addressing issues has been developed over the last thirty years or so in many contexts from family disputes to neighbourhood conflict to the work-place to commercial settings. In Scotland, the use of mediation has grown considerably in the public and private sectors in recent years in both litigious and non-litigious matters (for example in employment and workplace issues, building and construction, infrastructure projects, energy policy etc.).

The use of trained staff within organisations, as well as external mediators, to inculcate a collaborative culture is already helping a number of organisations in the public sector in Scotland to change the way in which they operate internally and do business externally. Many organisations and individuals, including the NHS, are undertaking training in mediation skills.

In addition to helping resolve conflicts that have or have threatened to spiral out of control, mediators play a valuable role in improving the success rate of proposed joint ventures, or other partnerships or alliances. By using their experience of why things go wrong, they can help reverse-engineer more effective working arrangements, prevent unnecessary conflict and develop processes to deal with conflict and competing interests when these occur.

Mediation can also help improve outcomes. The parties who share the issue they are trying to resolve remain in control of the decision making. This allows attention to be paid to issues that might not be directly related to a specific dispute, but which are important to the parties and their future relationship.

Mediation is a creative process that is more likely to result in a 'win-win' solution, which enables the relationship between parties to continue and develop. A good example would be where two public sector organisations are relying on each other in a service supply chain and where they have to continue to do business with each other. Equally, it is vital in employment and senior management situations where effective relationships are critical to good performance.

We encourage the Committee to consider how mediation and mediation skills could add real value in the delivery of public services in Scotland.

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