

Justice Committee

Alternative Dispute Resolution

Written submission from Safeguarding Communities – Reducing Offending

Introduction

Safeguarding Communities – Reducing Offending (Sacro) is a Scotland-wide voluntary organisation, committed to providing services that contribute to positive transformational changes in the lives of its service users. Sacro works independently and collaboratively within Scotland's communities to provide support, prevent conflict and challenge offending behaviour wherever the need arises. Sacro's services are based on research evidence, service user feedback, international standards of good practice and a commitment to development and innovation.

Alternative dispute resolution can be used to address disputes without going to court where both sides agree to the intervention. Alternative dispute resolution includes mediation, arbitration and ombudsmen. Sacro provide mediation services in Fife, Aberdeen and Moray.

Mediation

Mediation is aimed at assisting in the resolution of disputes through a process of skilled and principled intervention. As a process it differs from other methods of dispute resolution in some very important respects:

- Mediators are impartial – they are there to help everyone reach an agreed resolution and to increase mutual understanding.
- The mediation process gives everyone involved the opportunity to be fully heard.
- Mediators do not pass judgement or impose solutions – the people involved are helped to voluntarily take responsibility for finding a practical way forward.
- Mediation is a private process involving only the mediators and the parties to the dispute, and mediators act under a detailed policy of confidentiality.
- An important part of the mediator's job is to identify and help resolve the underlying causes of a conflict as well as the symptoms – mediation agreements are aimed at long-term solutions
- While mediation usually involves discussion of issues around past events, its main focus is on what is going to happen and how people will behave towards one another in the future.
- Because mediation is informal it can be a quick and comparatively cheap method of resolving disputes.

Mediation Provision Across Sacro

Mediation services across Scotland have changed both in the approach to commissioning and their availability. Sacro has seen a decrease in the commissioning of community mediation services over the last 10 years, with a decrease from 10 services in 2008 to currently 3 services in 2018. We have also worked in partnership with some local authorities, for example in Fife, to develop

new services that take a mediation approach and have built this into their community planning partnership to support community safety. Sacro's Fife Community Safety Support Service, funded by Fife Council, provides a range of support that includes mediation between families and parties in dispute, witness support and restorative work. This innovative service is based on individual needs assessments and personalised action plans. This service has proved to be very popular over the last 12 months since it was established and has worked with over 350 cases of dispute.

In Aberdeen and Aberdeenshire mediation had a long history of resolving neighbourhood disputes. These disputes have been focused on issues such as noise, children's behaviour, boundary or property dispute, racial harassment, other antisocial or abusive behaviour. In these cases we find that all parties engage in mediation for approximately 70% of cases referred.

Although it is difficult to draw comparisons across all the mediation services, Sacro's experience of mediation outcomes is that of those referrals suitable for mediation, more than half (50%) result in a full agreement or other positive outcome for all parties involved. **Appendix 1** provides a case study example of a mediation case, illustrating the process and outcomes.

Capacity Building and Workforce development for Mediation

Sacro has delivered mediation and awareness raising training and development sessions to a variety of community activists, volunteers, and public sector staff since 2000. Over this period we have delivered both generic and bespoke training and awareness raising sessions, tailored to specific audiences to support the development of skills and knowledge for mediation. This can be understood as an approach to community capacity building for mediation skills. We have also provided specialist training to support staff in particular roles where conflict resolution and mediation takes place in a complex environment e.g. hate crime, honour based violence.

Sacro delivers an accredited and well-respected five day Mediation Skills course. The course is accredited by Edinburgh Napier University at SCQF level 6. Now in its nineteenth year, it is offered to both members of the public and organisations. This accredited course has developed the skill base of over 1200 people to use mediation approaches and in the current period 2017-18 we are due to deliver this training at nine events to a total of approximately 90 learners. Feedback from learners is very positive, often highlighting the opportunity it provides to learn and practice new skills in a safe and supported environment. Of the nine events running in the current period, five have been especially commissioned; previous commissioners have ranged from the majority of the local authorities across Scotland, to third sector organisations such as Inspiring Scotland, Scottish Community Development Centre and the Private Rented Housing Panel.

Restorative Practice

Sacro is a leading provider of training and restorative practice services in Scotland. We deliver training to schools, local authorities and other organisations to reduce conflict, repair harm and support communities. We provide services in partnership

with a number of local authorities for both young people and adults as diversions from prosecution, including facilitating communication between victim and offender and supporting offenders through victim awareness programmes.

Sacro currently provides Restorative Justice (RJ) Services in Dundee, Perth, Fife, South Lanarkshire, North Lanarkshire and Aberdeen. The services are offered both to adults and young people, however RJ is predominately used in youth services. The availability and use of RJ in adults is sporadic and on a much smaller scale, this may be that RJ is not being embedded in adult criminal justice processes and policies. Sacro has 2 Adult RJ services nationally which are based in Aberdeen and Motherwell. The services in Motherwell is being decommissioned and will cease from end March 2018.

Restorative justice (RJ) is a voluntary process which brings those harmed by crime and those responsible for the harm together, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward. In the restorative justice scenario, the terms commonly used are person harmed and person responsible. RJ is part of a wider person centred approach to conflict resolution and harm reduction called restorative practice (RP).

Sacro Restorative Justice Referral routes

Many types of Youth Justice Services receive referrals through Early and Effective Intervention (EEI) local processes. These have been established to ensure young people receive proportionate and timely support to tackle and improve their behaviour. EEI support does not result in a criminal conviction. Disposals from EEI can include police direct measures and a referral to an intervention to change behaviour. A young person's eligibility for diversion is at the discretion of the Procurator Fiscal, the rationale being that a diversionary intervention will have a more positive impact in reducing future offending behaviour, hence improving future life chances. Sacro Youth Justice Restorative and Adult Restorative Justice services are funded by local authorities. The Youth Justice Service supports young people (aged 8—17yrs) who have either been charged with an offence or identified as being involved in risky/concerning behaviour in the community.

The main route for offence related referrals are as follows:

- Early and Effective Intervention group
- Young person on supervision diverted from the Children's Hearing System
- Local Authority Anti-social Behaviour Team
- Police
- Education
- Procurator Fiscal
- Locality Child Care Children and Families Teams

Restorative Justice Outcomes

Sacro finds that in general terms, a letter of apology or shuttle dialogue is an agreed outcome in 60 % of cases and a face to face intervention through a restorative meeting an agreed outcome in approximately 40 % of cases. In some of our services, there is the opportunity for a financial payment from the person responsible

to the person harmed to provide reparation for harm, this at times could be paid to a charity of choice of the person harmed or directly to them to repair harm done.

All persons responsible attend a Victim Awareness Programme. Consistent feedback from Sacro RJ services is that over 90% of person's responsible feel that they are more aware of the harm that they have caused and taking part in the RJ process has made them want to change their future behaviour. For persons harmed the feedback is generally very positive, with again over 90 % of persons harmed agreeing to engage in the RJ process, and again over 90% of them felt that the apology they received as a result of the RJ intervention seemed sincere.

Appendix 1 - Case Study

Mediation Case Study from Sacro Service

Background to conflict

Archie is the landlord of a privately rented tenement flat. He now lives and works in London and rents out his flat to a young professional couple- Jane and Michael. The rent barely covers Archie's mortgage. James owns the flat below Archie's and is being "driven mad" by the noise of Jane and Michael "stomping" about their home, furniture being moved and strange noises that James is convinced are Jane and Michael rolling a ball about their living room and banging loudly to annoy him. He feels they are retaliating to his complaints about the noise. Jane and Michael claim they are living normal lives in their home. They do not have wild parties or play loud music. They are fed up of constantly being contacted by their landlord to "tone down the noise" and the "dirty looks" James gives them in the landing. They are considering moving out of the property. Archie is annoyed as he cannot afford to lose his good tenants and doesn't have the time to deal with James' complaints. James just wants the noise to stop. Before Archie moved to London, he renovated his flat to make it more attractive to tenants. As part of this renovation he put down laminate flooring throughout and ceramic tiles in the kitchen and bathroom.

Case Progression

Mediation generally looks to involve all parties living in a household, rather than landlords. Landlords are generally responsible for the building and ultimately for their tenants but where disputes are around "lifestyle" issues- it is best to involve the people living in the household as they have the biggest power to make a change to the situation. A mediation meeting was therefore arranged between James, Jane and Michael who were all keen to get together and talk about the situation.

Mediation Meetings & Outcomes

The meeting between James, Jane and Michael essentially focussed on noise and the deliberate aspect that James was feeling. James was able to discover during the meeting that the floor coverings had been changed shortly before Jane and Michael had moved in. James had not realised this as he had been on holiday when the work had been carried out. This came as a surprise to James and helped him appreciate that a good part of the noise he was experiencing could have been down to floor coverings. A full and frank discussion was held where James explained the level of disturbance he was experiencing. Jane and Michael were horrified to learn that James could hear so much. Taking time to describe situations in full detail helped the parts to work out together than the "rolling ball" Michael was hearing was actually a computer chair on wheels being pushed back. The "deliberate banging" was a television remote falling onto the floor. Both parties were able to appreciate together that the biggest source of the noise was the flooring in the property. By this time, James, Jane and Michael had broken down barriers and were able to work together to decide how this may be tackled. Jane and Michael did not have authority to change floor coverings so it was decided that a further meeting would be held between James and Archie to take this further with the backing of Jane and Michael.

James and Archie met and discussed what had happened during the meeting with Jane and Michael. Although Archie was concerned to hear that the change in floor coverings seemed to be the main source of the noise, financially he did not feel able to change the situation. Although he empathised with James' situation- he did not see why he should have to spend money replacing the floor when essentially Jane and Michael were doing no wrong- just living their lives. A discussion as then held about what might happen if the situation were left as it was. Archie was able to see that he might lose his tenants or face complaints about future tenants. James was able to appreciate that it may not matter who was in the flat- the problem may not go away. By focussing on how the future would look in the way, James made a suggestion that Archie consider buying rugs for the laminated areas of flooring and that if Archie were willing to consider changing the ceramic tiles to lino in the kitchen and bathroom- he would meet half the cost. This suggestion was accepted by Archie.

Outcomes

A written agreement was made between James and Archie about replacing the floor coverings and how this would be paid for. Floor coverings were replaced and following a review of the situation 3 months later, the situation has vastly improved and everyone reports being happier about the situation.

Sacro
1 February 2018