

Mediation in Planning Update and Interim Findings

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Background to project

- Killian/Pretty review recommendation 12: *“greater use of alternative dispute resolution approaches should be encouraged at all stages of the planning application process where this can deliver the right decisions in a less adversarial and cost effective way”*
- Project set up by PINS and the NPF to:
 - investigate the role of mediation in reducing appeals
 - support the NPF Culture Change Action Plan

Funders and supporters

- NPF, PINS, PAS - contributed to budget total of £35k
- TCPA, BPF and PINS - venues/catering for meetings
- Steering Group members - giving time and expertise
- Accredited mediators - support at low cost/'pro-bono'
- POS and PINS help with LPA survey

Governance

- High level expert Steering Group (SG) to *“steer and provide critical comment on the proposed project, assisting in the identification and ultimate evaluation of suitable case studies”*
- SG comprises representatives from CLG; LGA; AJTC; PAS; HCA/ATLAS; RICS (DRS); RTPI; POS; Law Society; PEBA; BPF; TCPA; FoE; Planning Aid
- Project follows PRINCE 2 project management principles
- SG meets monthly
- Interim findings this month, final report by end June

Evidence streams

- Evidence collected from a range of sources:
 - Mediation of live planning cases (AAP, enforcement and major development);
 - Completed planning and related mediations;
 - Relevant literature and practice;
 - Review of cases where mediation didn't take place after initial expression of interest;
 - Review of HCA ATLAS work in supporting the delivery of major development;
 - Survey of Local Authority Chief Planning Officers (thanks to POS);
 - Survey of a range of experts in the planning field

Project method

- Initial focus on cases studies - expressions of interest sought to identify cases in enforcement, plan-making and applications for major development where mediation might help
- Project extended to include evaluation of techniques already in use that fit within the concept of 'mediation in planning'

Evaluation of case studies

- Aims of, and approach to, evaluation and TOR for the tender process discussed and agreed with the SG
- Consultants - Chrissie Gibson and Scott Jones - appointed to evaluate the case studies, and draft the Literature Review
- All parties to the mediations were invited to complete questionnaires - a summary of responses will form an annex to the final report

Emerging findings - barriers

Understanding:

- **Definition** – need for greater flexibility in defining mediation in planning.
- **Language** - use of technical or legal language

Resources/capacity:

- **Availability** of trained mediators
- **Support** appropriate to the case
- **Skills** - working collectively; confidence in engaging in an unfamiliar process
- **Gender balance/diversity**- lack of diversity in the professions may inhibit the acceptance of mediation
- **Costs** - who should pay?

Emerging findings - barriers

Systems and processes:

- **Current targets** within the planning system lack flexibility
- The **democratic decision-making process** limits the ability to reach a final binding agreement in a mediation

Culture:

- an **imbalance** between those 'in the know' and those outside
- more **consensual approach is not embedded**

Emerging findings - opportunities

Favourable context:

- **Government commitment** to use of ADR techniques
- **Growing interest** in mediation planning
- **Greatly increased use of mediation in the courts and elsewhere**

Better use of resources:

- Successful mediation **saves money**
- Successful mediation **saves time**

Emerging findings - opportunities

Good fit with the spatial planning system:

- **Consistent with the aims** of the ‘frontloaded’ spatial planning system
- A **more holistic** approach to the resolution of planning issues
- Potential to **break down barriers, build trust and reduce complexity**
- Enables **local ownership** of issues to be retained

Accessibility:

- **More accessible** to those unfamiliar with the planning system
- Potential to **improve communication** between diverse parties

Next steps

- **Workshop** with SG to discuss conclusions and recommendations - Weds 5 (or 19) May - NPF members welcome to attend
- **Ongoing communication** via news release and publication on NPF and PINS websites
- Consideration of appropriate **launch event** for report and **ongoing actions** - not another report on a dusty shelf!