

# JOINT PRESS RELEASE

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## ‘Mediation in Planning’ report launched.

The National Planning Forum has launched **Mediation in Planning** - a report by Leonora Rozee OBE and Kay Powell.

*Mediation* is one of a family of techniques used to assist with improving communication, negotiation and consensus building. Mediation procedures are generally conducted with the help of a neutral third party.

‘Mediation in Planning’ was jointly commissioned by the Planning Inspectorate and National Planning Forum. The project was funded by the Planning Inspectorate, National Planning Forum and the Planning Advisory Service.

Cllr. Mike Haines, Chairman of the National Planning Forum said “We firmly believe that the time is right for mediation to take its place in the toolbox of the planning system”. He added, “Planners, elected members, developers, businesses and local communities need to find

ways to work more effectively together. Mediation offers a non-confrontational and collaborative way forward, in line with the Government's localism agenda."

Katrine Sporle, Chief Executive of the Planning Inspectorate commented, "This study shows that mediation can be used to find sustainable solutions in complex planning cases and, if adopted, could assist in quality outcomes without recourse to dispute resolution. This is good news for local decision-making."

Leonora Rozee said, "People may say that mediation simply adds another stage to the planning process, and hence time and cost. However this study has shown that it can cut through complexity and result in much better outcomes. Of course, mediation is a voluntary process which requires willing parties and there will be occasions where co-operation cannot be achieved." She added, "The Government's determination to re-balance the planning system to create much greater local ownership and responsibility for solving issues locally requires new techniques. We consider that mediation is one of these."

Kay Powell commented "Mediation is a family of techniques whose time has come."

The report's recommendations set out actions for a range of players, from Government to education providers, to enable and support the use of mediation in the planning system as part of "normal business".

**Note to Editors:**

Publication of this report follows growing interest in the potential value of using mediation in the planning system since Chris Shepley CBE first raised the subject in 1996. It builds on studies undertaken in the early 2000's by Michael Welbank.

A copy of the Summary and Table of Recommendations is attached.

The full report is available on the National Planning Forum web-site: [www.natplanforum.org.uk](http://www.natplanforum.org.uk) and on the Planning Inspectorate external web-site: [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk)

The **National Planning Forum** is the largest cross-sectoral forum focussing on planning in England with a mission to inspire planning and planners. It has a membership of over 70 organisations representing the key national organisations with a role in, and commitment to, planning. It is committed to ensuring that spatial planning in England is fit for purpose. For further information contact [secretary@natplanforum.org.uk](mailto:secretary@natplanforum.org.uk)

The **Planning Inspectorate** for England and Wales is an executive agency of the Department for Communities and Local Government and the Welsh Assembly Government. It is responsible for the determination of planning and enforcement appeals and public examinations of local development plans. It also deals with a wide variety of other planning-related casework, as well as non planning casework on behalf of other Government Departments, particularly the Department for Environment, Food and Rural Affairs (Defra) on access, rights of way and cases under environmental legislation, and the Department for Transport (DfT) on highway orders and other related work.

The Mediation in Planning Steering Group comprised representatives from: Communities and Local Government; Local Government Association; Administrative Justice and Tribunal Council; Planning Advisory Service; Homes and Communities Agency Advisory Team on Large Applications (HCA ATLAS); Royal Institution of Chartered Surveyors; Royal Town Planning Institute; Planning Officers' Society; Law Society; Planning and Environment Bar Association; British Property Federation; Town and Country Planning Association; Friends of the Earth; and Planning Aid.

## **MEDIATION IN PLANNING JUNE 2010: EXECUTIVE SUMMARY**

This report was commissioned by the National Planning Forum (NPF) and the Planning Inspectorate (PINS) in June 2009 as a response to a recommendation in the Killian-Pretty report (2008) urging investigation of the use of alternative dispute resolution at all stages in the planning process. Mediation is a cost effective way of resolving disputes with the help of an independent third party. It also incorporates safeguards for third party rights and satisfies public requirements for transparency. The project aims to demonstrate its value by undertaking and evaluating 5 'live' case studies involving enforcement, an Area Action Plan and a major development, by drawing on the results of completed mediations as well as related work being undertaken in England, expert interviews and a specially commissioned survey to test opinion, international experience, and relevant literature. Lessons are drawn from all these sources and the similarities and differences between the use of mediation in civil litigation and in planning explored.

Evaluation of the live cases shows that that the tone and atmosphere is entirely different from the conventional hearing, inquiry or public meeting; very positive results can be produced for all parties; complexity reduced and key issues resolved; but much depends on the mediator's skill and on the preparatory work s/he undertakes; confidentiality within the process is an important ingredient, but outcomes can be structured to safeguard the public interest of the planning system.

Analysis of the evidence results in identification of the barriers and opportunities to the use of mediation in planning. The barriers are a lack of understanding of mediation and its potential use in planning, scarce resources and capacity, existing systems and processes, and culture. The opportunities are the current favourable context, the fact that mediation allows better use of resources, fits well with the spatial planning and localism agendas, and can be made accessible to a wide range of people.

The report concludes that mediation could provide an effective tool to tackle a wide range of planning issues. It recommends that mediation should be strongly encouraged by Government by providing a policy framework, creating capacity to allow its benefits to be realised and establishing an appropriate regime of incentives and penalties to support the delivery of a new approach to planning. In due course it concludes that it might be sensible to require mediation to be considered in planning disputes, as is the case in our civil justice system. Recommendations cover the need to develop and build a market; provide advice and guidance; develop skills and create capacity.

The authors acknowledge the support of project sponsors NPF and PINS; the funders NPF, PINS and the Planning Advisory Service; the invaluable advice of the Steering Group who gave their time freely to the project; the skill and dedication of the mediators; the important contribution of the consultant evaluators; the enthusiasm of all those in local planning authorities and Planning Aid who participated in, or volunteered for, the project; and the encouragement of all the people who contacted the project team to offer their services or to register their interest in the project.

## MEDIATION ON PLANNING JUNE 2010: TABLE OF RECOMMENDATIONS

### 1. Developing and building a market

What?	How?	By whom?
Developing awareness	1.1 Develop and implement a delivery strategy to include disseminating knowledge and good practice.	NPF/PINS Project Steering Group in consultation with Government /LPAs
Assessing value	1.2 Develop costs and benefits models including mechanisms for identifying non monetary benefits	Government and the professions
Developing practice	1.3 Support ongoing pilots such as on a targeted regional or sub-regional basis. Use pilots to establish where major benefits likely to be delivered using mediation.	NPF/the professions/local government Government/Planning Advisory Service
Selling the idea	1.4 Develop and deliver 'promotional' material for elected members and others involved in the planning system.	LGA/IDEA/the professions/the development community/Planning Aid/Planning Advisory Service
Assessing effectiveness	1.5 Establish mechanisms and process to monitor take-up; satisfaction levels; appeal numbers/time taken to deal with appeals.	Government/PINS with advice from expert bodies such as CMC and members of the Project Steering Group

### 2. Providing Advice and Guidance

What?	How?	By whom?
Developing understanding	2.1 Develop Government endorsed practical guidance building on Scottish model and utilising case studies. Guidance to include advice on what mediation in planning should embrace, how to ensure that it is a properly inclusive process, such as the role and expertise of a 'friend' to the non-expert, and how to integrate mediated solutions into the statutory planning process.	Commissioned by Government or developed by cross sector grouping such as NPF.
Quality assurance	2.2 Provide advice and guidance on what skills and expertise required by mediator and how to recognise those with appropriate qualifications.	Government and professional bodies in consultation with Civil Mediation Council

### 3. Developing skills and creating capacity

What?	How?	By whom?
Providing a framework	<p>3.1 Embed mediation in policy, setting out what mediation is and where it could be beneficial; the status of a mediated outcome in the decision-making process; and the role of elected members in the mediation process.</p> <p>3.2 Ensure that procedures and processes for plan-making and decision-making provide scope to 'stop the clock' to allow mediation to take place.</p> <p>3.3 Review the scope for using the costs regime to incentivise the use of mediation.</p>	Government
Develop infrastructure to support the use of mediation	<p>3.4 Establish a mediation unit within PINS either to provide direct service or to use established service providers to resource mediators and provide support systems;</p> <p>3.5 Encourage existing established service providers with expertise in planning mediation.</p> <p>3.6 Identify funding opportunities.</p> <p>3.7 Support for the establishment of community mediation services.</p>	Government /PINS in consultation with professions and relevant national bodies (eg Civil Mediation Council (CMC); RICS; Planning Aid; ATLAS)
Develop skills and knowledge of planners and other professionals, councillors, developers and landowners, planning students, third sector and the public.	3.8 Provide a range of bespoke, targeted training packages specifically designed for the planning system, based on experience and to include 'soft' skills such as communication and cultural issues which may impact on the way mediation is perceived by different sectors of society.	RTPI/RICS and other professions; schools HE/FE providers; agencies such the Planning Advisory Service, ATLAS, Planning Aid