



Other Bodies/Individuals  .....

**FINAL DECISION YES**

**SUGGESTED NEXT STEPS:**

Details to be specified

Further consideration by this Committee  .....

To Council  .....

To Cabinet  .....

To an O & S Committee  .....

To an Area Committee  .....

Further Consultation  .....

**Audit & Standards Committee - 24 February 2009.**

**Mediation -Advice for Elected Members**

**Report of the Strategic Director of Performance and  
Development**

**Recommendation**

That the Committee approves the proposed guidance (with/without amendment)

**Introduction**

The Assessment Sub-committee asked the Monitoring Officer to consider what advice should be given to elected members when asked to take on the role of mediator in disputes between constituents. This arose following the receipt of a complaint from a member of the public relating to the role of an elected member engaged as a mediator in a dispute between constituents.

Attached is a draft guidance note for elected members for the committee to consider.

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Strategic Director of  
Performance and  
Development

Shire Hall  
Warwick

27 January 2009

## **MEDIATION – GUIDANCE NOTE**

Elected members may from time to time be asked as the local councillor or community representative to act as a mediator in disputes involving constituents. Whilst elected members bring a wide variety of skills and experience into local government, they may or may not include the skills of an effective mediator. Mediation is a skilled undertaking. You should consider carefully the questions at the end of this note before agreeing to participate.

Trust underpins the mediation process. If the parties do not trust a mediator's integrity in terms of competence diligence, neutrality, independence, impartiality, fairness and the ability to respect confidences, mediation is unlikely to succeed.

### **What is Mediation?**

Mediation is an effective way of resolving disputes without the need to go to court. It involves using an independent third party - a mediator - who helps both sides to come to an agreement. Mediation is a flexible process that can be used to settle disputes in a whole range of situations such as:

- consumer disputes
- contract disputes
- housing disputes
- neighbourhood disputes

### **What is the role of the mediator?**

The role of the mediator is to help parties reach a solution to their problem and to arrive at an outcome that both parties are happy to accept.

The mediator remains neutral throughout the process. The focus of a mediation meeting is to reach a common sense settlement agreeable to both parties.

Mediation is a voluntary process and will only take place if both parties agree. It is a confidential process where the terms of discussion are not disclosed to anyone outside the mediation.

### **What happens in mediation? –A basic outline**

After a referral is received, two mediators will visit each party concerned, separately, with a view to, wherever possible, getting the parties to agree to meet face-to-face, together with the mediators. The mediation session will take place in a neutral venue and the aim is for the parties to discuss the issues together in order to try to reach an agreement.

The mediators listen to the issues involved, however they remain impartial at all times.

The mediation process is a confidential one as long as the proceedings and content are within the limits of the law.

It is the mediators' role to help the parties concerned to reach a mutually acceptable agreement. This agreement can be written or verbal, however it is a 'good will' agreement and not legally binding.

The advantage of mediation is that it is a means of trying to resolve a dispute in a conciliatory way.

Mediation does not exclude other forms of action, should the need arise. If mediation is not successful, legal routes would still be available.

## **What should I as an elected Member consider?**

### ***Do I understand what the mediation process involves and what would be expected of me?***

Do I know how to structure a mediation session? What skills and techniques would I need to help the parties find a solution?

***Have I the time to undertake the mediation?*** Often by the time mediation is suggested the issue between the parties involved can be entrenched and to reach a solution may require a substantial investment of time.

### ***Have I the right skills and experience to undertake the mediation?***

Be honest with yourself. Remember that the people involved may be feeling upset, vulnerable, angry or distressed. You will need to be patient, objective and non-judgemental about other people's problems and situations. Mediation may involve a wide range of people from different cultures, age groups and backgrounds.

### ***Do I need training before undertaking mediation or this particular mediation?***

Remember no two mediations are alike and a variety of skills and techniques will be required depending on the individuals and the issue. If you wish to undertake a mediation role in your community you should consider undertaking some form of mediation training covering at least the following

- conflict management
- listening skills
- assertive communication
- the whole process of mediation

Specialist training may also be required for the more complex or entrenched issues. There are professional qualifications/ certifications which can be acquired.