

PINS/NPF MEDIATION IN PLANNING PROJECT

BRIEFING NOTE 21 OCTOBER 2009

Context: The 2004 Planning and Compulsory Purchase Act provides a key driver for re-examining the potential value mediation can add to effective early engagement in decision-taking and plan-making. The Killian/Pretty Review¹ recommended that *“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.”* This project has been set up to meet the Government’s response to that recommendation. Previous research into mediation in planning will be taken into account. A Project Initiation Document has been prepared to provide proper governance to the project.

Purpose of project: To test the suitability of using mediation techniques in a variety of planning disputes involving major development, enforcement and plan-making.

Method: A cross sector steering group of NPF members (SG) has been set up to suggest and assess potential live planning cases which might be suitable for mediation having regard to the following principles:

- the case has reached a dispute likely to lead to a refusal of planning permission or enforcement action being taken; or
- a dispute has arisen over specific aspects of an emerging plan (eg and AAP) which might be suitable for mediation;
- the parties who would be asked to engage must be the parties to a dispute;
- the participants must agree, and have the authority, to participate.

The SG is looking for several potential cases out of which appropriate ones can be chosen for mediation. Publicity in “Planning” and by SG members within their organisations has led to several expressions of interest both in helping with the project (some on a pro bono basis) and suggested case studies.

Briefing: The parties for the chosen cases will be fully briefed about the aim of the project. An evaluation process is being developed to ensure that the views of the parties to the dispute (and the mediation process) will enable the lessons to be learned from the case studies to be properly understood. A tender for evaluation work is due to be let by the end of October. The project will pay for the mediator and evaluation. All mediators will be qualified and experienced in planning mediations. The mediation session(s) will be set up by the mediator assigned to the case by the SG. One or two mediators, an evaluator and the Project Chair will attend the sessions, and the key issues and result of the mediation will be reported (excluding any confidential information) in the Evaluation Report.

Timetable: The aim is to carry out mediations during the autumn/winter of 2009/10. Precise timetables will depend on the nature and scale of the cases to which the mediation process will be applied. The aim is to start some of the sessions before Christmas and to report to the NPF meeting on 4 March 2010.

Resources: £35k has been allocated for the project, £20k from the NPF, £5K from PINS, and £10k from PAS.

Leonora Rozee OBE BA(Hons) MRTPI
Chair of joint project
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¹ Killian Pretty Review: Planning Applications A faster more responsive system.
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