



Attorney General's
department of nsw

**The Honourable R J Debus,
Attorney General**

Dear Minister,

I have the honour to present, pursuant to section 31(1) of the *Community Justice Centres Act 1983*, the twenty first Annual Report of the Community Justice Centre Program. The report covers the year ending 30 June 2004.

Deborah Sharp
Director
2004

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Vision

To provide excellent Alternative Dispute Resolution services to the people of NSW.

CJC Objectives

- The provision of innovative, accessible and equitable ADR services throughout NSW.
- The provision of culturally appropriate ADR services to Aboriginal and Torres Strait Islander communities throughout NSW.
- To establish proactive partnerships with key referrers
- To provide an environment in which all staff and mediators contribute fully to the values and outcomes of the organisation and are appropriately trained, supported and supervised.
- To provide an administrative structure that meets the needs of the business, and is flexible, innovative, practical and cost effective.

Director's Report

CJCs has continued to provide a solid community service in 2003-4, with this being the first full year of providing the service to all communities in NSW. The emerging themes across the organisation are referrals of cases that are increasingly complex and the extremely pleasing increasing referrals of parties who are Aboriginal. The major challenge is the need to continually promote our services to current and potential referrers.

The CJC Management team and I have been focusing on the following priorities over this period:

- The evaluation and further expansion of the provision of the CJCs service to Aboriginal and Torres Strait Islander communities across NSW. We are very pleased to have attracted a grant under the Elsa Dixon fund, administered by the NSW Department of Education and Training. The grant, which came into effect in April 2004, enables us to complete the evaluation and commence recruitment of additional Aboriginal and Torres Strait Islander mediators across NSW. Most importantly, the grant also allows CJCs to examine our practices and ensure they are culturally appropriate and meet the needs of diverse aboriginal communities.
- Continual improvement in the area of mediator training and accreditation. The previous year saw an expansion of the training program and, building on that experience, CJCs has focused its efforts on meeting the needs of mediators across NSW. Providing training, supervision and support to mediators living all over the state is essential for CJCs to continue to provide a high quality, consistent and accessible service, state wide.
- Improved relationship with major referrers, for example with Local Courts and Law Access, to ensure at both the State and regional level disputes suitable for mediation are being referred to CJCs. Work continues with both organisations to develop protocols and increase understanding leading to improved referral rates. Despite the impact of technology, good referrals are almost always based on a positive relationship with the referrer who is informed and aware of the service CJCs offers. One of the most effective ways of achieving this is to have mediators present at List Days at Local Courts – referrals can be expedited “on the spot” and court staff get to know CJCs mediators. This is most useful in regional locations.
- Building a strong and sustainable organisation

CJCs has the following consultative forums. The Professional Reference Group, the Training Group, Aboriginal and Torres Strait Islander Network, the

CJC Occupational Health and Safety Committee and the Joint Consultative Committee. These consultative fora provide unique sources of advice and recommendations to the Director on issues such as training needs, the practice of mediation, feedback on mediation in Aboriginal and Torres Strait Islander communities, OH&S and working conditions. Together they form an opportunity for staff and mediators to provide advice and feedback on matters of importance to CJCs.

Twice a year all CJC staff come together for two days to explore common practices and solutions which impact CJC work across the regions. Again, this provides an opportunity for staff to discuss with the CJC Management team, issues and ideas having organisation wide impact.

Highlights

As part of Law Week, CJCs held a seminar exploring mandatory and voluntary mediation. The objective was to provide participants with an opportunity to hear a range of views on this issue and be part of a discussion forum. A panel made up of Paul Venus, Caroline Rimmer and Theo Van der Veen presented an interesting and thought provoking range of ideas, taken up with vigour by those present.

The Review of the CJC Act by the NSW Law Reform Commission continued throughout the reporting period. The LRC issued a discussion paper in 2003 to which CJCs responded. The CJC Council did not meet during the reporting period as the role of the Council is being addressed as part of this review. The final report of the review is expected in late 2004.

CJCs conducted presentations to overseas visitors from China, Thailand and Singapore- always an opportunity to share our experiences and learn from others. The highlight of the presentation to the delegation from China was a mock mediation showing parties in a neighbourly dispute arising from misunderstood cultural differences.

CJCs staff and mediators received a number of nominations for the inaugural Attorney General's Achievement Awards. Overall it was extremely pleasing to have CJCs nominated for categories of innovation, client service excellence, communications and commitment to the community. The Awards event provided those staff and mediators nominated an opportunity to showcase CJCs contribution to the rest of the Attorney General's Department.

The CJCs Management Team and I continue to be supported by an innovative and dedicated team of staff and mediators and my thanks go to all of them for their contributions to the CJCs service in 2003-4.



Robert Sharp

Regional Highlights

Northern CJsCs

2003 saw Northern CJsCs 'shake hands' to celebrate 10 years of mediation in the Lower Hunter area. Our attempt to set the world's longest handshake record for the Guinness Book of Records was a wonderful way to share our successful provision of dispute management services with the community. It also strengthened our opportunities to provide a high quality service for the next 10 years!



Participants celebrate the success of the world's longest handshake

The caseload of the Northern region has stabilised – with an increase of 4.3% - with the consolidation of referrals from courts in the smaller and more remote areas. The percentage of referrals overall from Magistrates has declined by 3.79% but the percentage from pre-court referrals (from Chamber Magistrates and Registrars) has increased by 2.53%.

Referrals from private solicitors are gradually increasing; from 2.6% in 2002 – 2003 to 4.84% in this reporting year. Greater community knowledge of and satisfaction with CJsCs services is reflected in the increase in word of mouth referrals –this has escalated by 61%.

Throughout the region, CJsCs provision of services has broadened and continued to adapt to local needs. Types and complexity of situations where CJsCs mediation has been requested continue to expand – in particular matters involving family and community groups.

Use and understanding of the benefits of CJsCs service has grown as a direct result of mediators regularly attending List Days at twenty local courts from Kyogle to Armidale to Woy Woy.

Training courses such as "Handling Difficult People" have been offered to government and non government organisations in most regional centres – from Walgett to Taree to Mullumbimby to Niagara

Park. The courses have offered referrers and community organisations the opportunity to increase knowledge, practise skills and techniques, network as well as become better informed about CJC services.

The number of mediations involving Aboriginal clients has increased in keeping with the training of Aboriginal and Torres Strait Islander mediators from across the region and this is expected to continue to increase as aboriginal communities become more familiar with the ability of CJsCs to service their particular needs.

May – June 2004 saw an additional twelve mediators trained and we look forward to another year of enthusiastic, relevant service to local communities.

Southern CJsCs

2003-2004 has been an exciting and rewarding year for the Southern Region with a strong focus on consolidation and implementation of new initiatives to provide an increasingly effective service.

The consolidation focus is reflected in the maintenance of files opened at approximately the same level as last year (a very slight decrease) and an increase in the percentage of files resulting in mediation. There has also been a greater interest in use of CJsCs mediation in family matters particularly in rural areas. This indicates communities and referrers, even in the more remote geographical areas, now have a clearer understanding and appreciation of how CJsCs are able to assist them.

A solo mediation model was piloted with Civil and Small Claims. The evaluation showed, with skilled pre-mediation and referral of matters that were less complex, positive outcomes for the clients and mediators were gained.

Strong networks have continued to be established and expanded throughout the region with other community and government organisations. CJsCs has been involved with the Safer Warilla Project, a local government initiative that focused on increasing a community's awareness of services. CJsCs supported the project by attendance at community forums, contributions to publications and assisting in settlement of community disputes. The Safer Warilla Project is expected to successfully expand into a Peer Mediation Program for Warilla High School in the next reporting year.

Part time staffing of the Campbelltown office has established closer working relationships with the local court as well as the Aboriginal Tenancy and Advocacy Service. We hope to see our presence and community development in the area reflected in the statistics for the next reporting year.

A new course, Mediators as a Team, was developed



and piloted. The course explores co-operative, constructive and supportive working practices and how to successfully implement them. The initial program has been a success and has been attended by mediators across all regions.

Sydney CJs

This has been a year of consolidation after major changes in the previous year including the relocation of the regional office to Bankstown.

The unsettling effect has seen a 6% drop in the number of requests for mediation over the previous reporting year. Despite this, there was only a 1.2% drop in the number of mediations arranged and even less in the number of mediations held (0.4%), indicating a growing confidence in the mediation process from people who are approached to mediate.

This confidence is also indicated by a 7.6% increase in the number of people who self referred during the period (clients who looked on the internet, in newspapers or magazines, read pamphlets, were previous clients or who had spoken with a previous client).

During the year Sydney CJs recruited and trained six new mediators to cover a shortfall in the north and northwest of the city. Training sessions were also conducted to enhance the skills of existing mediators. This included training sessions in court work (Small Claims and Apprehended Violence Orders) and in handling large and complex disputes.

There has also been continuing provision of information sessions with Police, Department of Housing and to inner city organisations.

The year ahead will focus on building and expanding the services to the diverse communities of the Sydney region.

Western CJs

An emerging trend in the Western region has seen an increased demand from communities experiencing conflict involving many people. The management of large community disputes requires experienced staff and mediators to work closely with those communities to develop strategies which suit their particular cultural, organisational and interpersonal needs. This work was recognised by the Attorney General's Department in its Annual Achievement Awards where Jim Samphier received a highly commended award for Client Service Excellence.



Jim Samphier with his AAA Highly Commended award

A few experienced mediators have the skills to work with complex disputes so a mentoring program has been put in place where less experienced mediators work with an experienced conflict manager.

Western CJs has participated in training and information sessions with the diversity of service providers across the region. Innovations Conference held in Orange, Crime Prevention Conference in Dubbo, Community Relations Commission at Windsor, Lifeline Westmead, Women's Domestic Violence Court Support, Chamber Magistrates, and Court Staff are some examples.

The caseload of Western CJs declined by 8% reflecting changes in court referrals. As early referral of disputes increases the rate of "success", work is being done to turn this trend around.

In the current reporting period there was also an increase of 16.3% in the number of matters referred through word of mouth. Most often a client who comes to the service in this way will tell us a friend said they should try mediation with CJs. This may indicate an increased community awareness and satisfaction with the service.

The year came to an end with the successful recruitment and training of seven mediators living in the upper Blue Mountains, Cowra, Coonabarabran, Binnaway and Mudgee. Training was conducted in Newcastle where the new mediators had the opportunity to work with 20 other new mediators from across the state.

As we look to the new year a priority will be to increase the number of mediators able to work effectively with the more complex large community disputes. There is no doubt this is an area where mediation can make a positive difference to the lives of so many people.



Service Delivery

Matters are efficiently dealt with by CJsCs without waiting periods and delays, although some cases may take longer to finalise due to the complexity of the dispute and the willingness or time constraints of parties involved.

- **72%** of files opened were closed and finalised within 30 days
 - **93%** were closed and finalised within 60 days.
- These figures are comparable to the last reporting year in which 73% and 96% were closed and finalised within 30 and 60 days respectively.

Outcomes

The statistics show a slice of the services and outcomes provided by CJsCs, however just how success is measured is an area for further research and consideration. What are the factors that influence the second party to agree to mediation, a signed agreement may not be the only measure of a positive outcome, what skills and experiences do clients take away from the session and how do we measure the impact of our premediation service? Initial research and a focus on obtaining client feedback is planned for the next financial year.

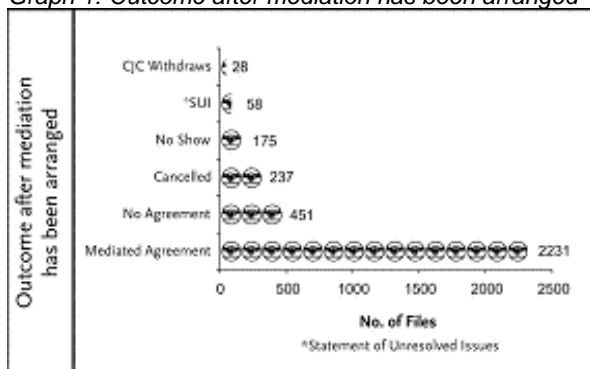
The *Community Justice Centres Act 1983*, Section 23 provides that:

- (1) Attendance and participation in mediation session is voluntary;
- (2) A party to a mediation session may withdraw from the mediation session at any time.

Files opened during the year under review totalled 6,824. Of the 2,768 matters that proceeded to mediation, 81% ended in agreement. Of all files opened 2,477 (36%) were resolved to the satisfaction of the disputants (this includes matters resolved without the need for mediation).

The experience of similar mediation projects in other parts of the world is that where mediation is a voluntary process, both parties will agree to a mediation session in about one third of all disputes. Our results have been consistent with this, with minor variations from time to time. In the 2003/2004 reporting period mediation was arranged in 3,180 (46%) of files opened.

Graph 1: Outcome after mediation has been arranged



- In the year under review, a mediation session was arranged in 46% of cases
- Where a mediation session was held, agreement was reached in 81% of sessions
- In 18% of cases, the administrative units were unable to contact, or had no response from Party B
- Party B declined in 21% of all cases
- A further 246 disputes (4%) were resolved, without proceeding to mediation, to the satisfaction of the parties.

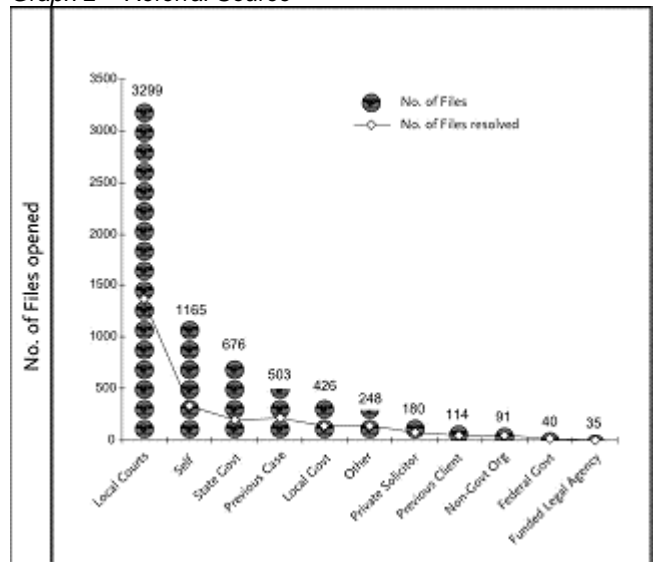
Referral Source

The major source of referral for the year under review was Local Courts (48%). This is the equivalent percentage of referrals received from Local Courts in the previous reporting year.

Referrals from legal sources total 57% of files opened. The breakdown of the referrals is: Magistrate (1811), Chamber Magistrate (1086), Registrar (384), Police (241), Private Solicitor (180), Legal Aid (59), Legal Centre (35), Family Court (26), Law Access (23), Local Court Staff (18) and Legal Information Access Centre (1).

Other – includes: mediators, trade unions, marriage counselling services, private sector (doctors, banks, personnel, officers, real estate agents, fencing contractors etc.)

Graph 2 – Referral Source

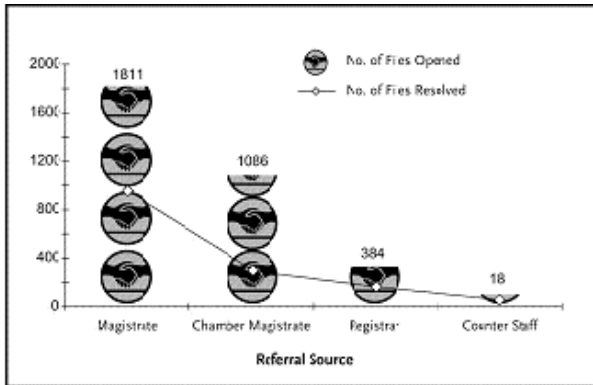


Local Court Referrals

Local Court referrals are broken into three groups of referrers: Magistrates, Chamber Magistrates and Registrars.

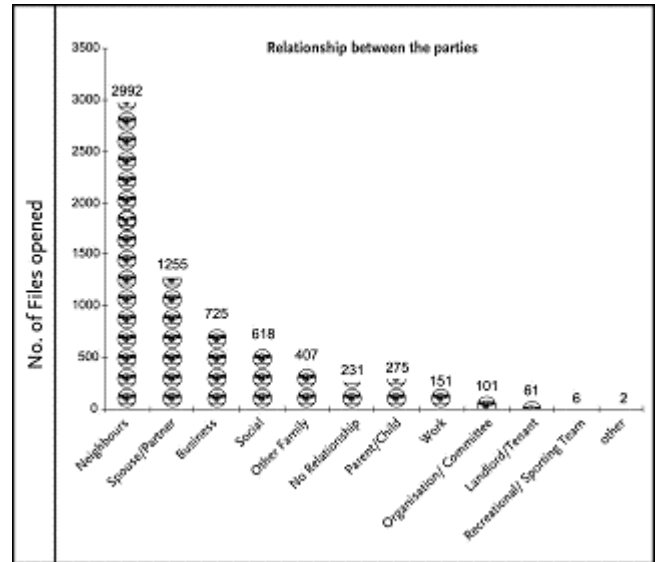
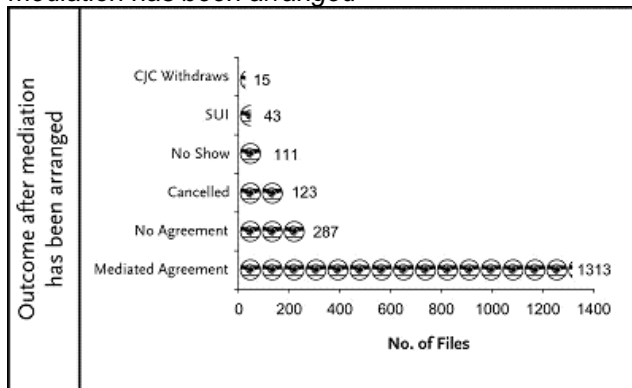
Graph 3 – Local Court Referrals





The outcome of CJsCs Intervention after a mediation session had been arranged for Local Court referrals as a whole are demonstrated in:

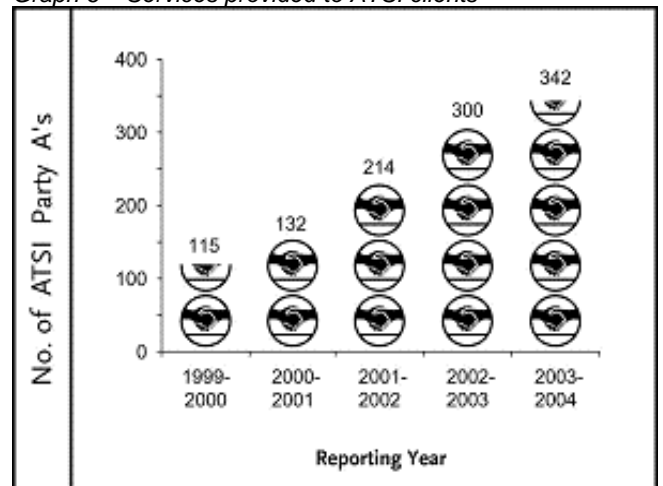
Graph 4 – Local Court Referrals – Outcome after mediation has been arranged



Increase in Services to Aboriginal and Torres Strait Islander Communities

CJCs continually monitor the demographics of our clients, thereby gaining an understanding of which communities are successfully accessing and utilising the service. This reporting period has seen a 14% increase from the previous year in Aboriginal and Torres Strait Islander clients contacting CJCs to provide assistance.

Graph 6 – Services provided to ATSI clients



Apprehended Personal Violence Orders were involved in 1,040 cases (15%).

Relationship between the Parties

Neighbour disputes at 44% continue to be the most frequently represented in the caseload.

Family disputes account for 28% of the work of CJCs, a slight increase from last year's 26%. Family disputes include those between separating or separated spouses, parent and child relationships as well as other family. Separating or separated spouses account for 65% of family disputes (compared to 2002-2003 64%).

Disputes involving adolescents or young adults and their parents account for 14% of all family disputes. Many of these disputes have been before the Children's Court as irretrievable breakdowns in family relationships and the resolution at mediation enables the young person to remain at home, or to leave home by agreement. This reduces the likelihood of "risk" behaviour on the part of the young person.

Nature and Complexity of Disputes

The data collected in this table is somewhat subjective as the complaints recorded depend upon the matter immediately important to Party A at the time of the interview. Therefore, it is a conservative picture of the nature and complexity of the dispute.

Graph 5 – Relationship between the parties

The method of classifying the nature of dispute



recognises the separate components of:

- the disputing behaviour (behavioural complaints); and
- the presenting problem, or specific problem (specific complaint).

For the reporting period:

- the number of behavioural complaints totalled **12,833**;
- the number of specific complaints recorded for all cases totalled **9,915**; and
- the average number of complaints per case was **3**.

The most frequently mentioned complaints were:

Behavioural Complaints

- Shouting, abuse 1, 981
- Inability to communicate 1,952
- Refusal to negotiate 1,437
- Insults, taunts 1,199
- Money, debt 864
- Repeated refusal or failure to act on complaints 663
- Repeated complaints, regarded as trivial by recipient 527
- Noise – any source 502
- Threats of violence - things thrown (missed) 452
- Harassment by letter or phone 441

Specific Complaints

- Family – Contact 793
- Fence 787
- Invasion of Privacy 711
- Children -Behaviour, noise, rudeness 437
- Lifestyle, Environmental 403
- Children - Nuisance caused by, discipline of, Concern for care of 357
- Visitors, Customers, Callers – nuisance caused by 329
- Residence of child 304
- Division of property 302
- Plants, Trees, Shrubs – nuisance caused by 289

How Serious are the Disputes?

Of the disputes dealt with by CJs, **22%** involve harassment, threats, property damage, theft or violence. **39%** of these disputes were resolved.

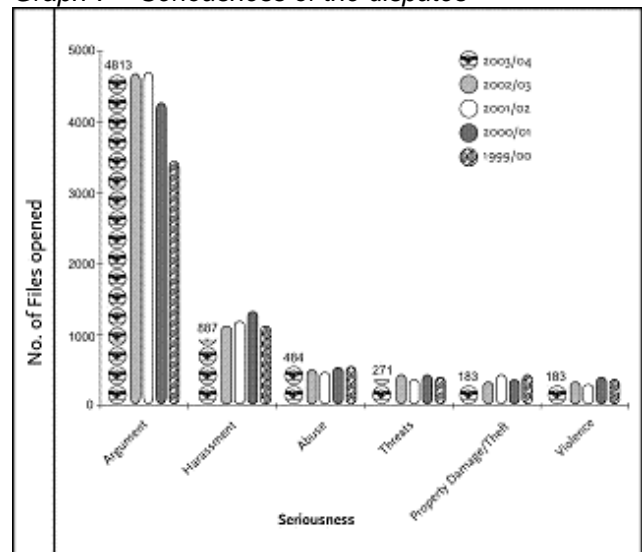
Examples of categories:

- **Argument** – may mean that parties are unable to reach agreement or are unable to communicate.
- **Abuse** – may include heated and repeated

- arguments ending in insults or written abuse.
- **Harassment** – could involve repeated attempts to embarrass/annoy.
- **Threats** – may include threats of violence or property damage, threats of legal action.
- **Property Damage/Theft** – deliberate damage to property, alleged theft, accidental damage with no intention to repair.
- **Violence** – may mean there has been a violent act against the person.

It is important to highlight that disputes are usually multi-faceted frequently involving complex multiple issues.

Graph 7 – Seriousness of the disputes



Service User Profiles and other caseload statistics are available from the CJC Directorate or on the CJs website at: www/cjc/nsw.gov.au/cjc.nsf/pages/publications



Glossary of Definitions

Party means the person, persons or organisations involved in matters dealt with by the CJsCs.

Party A is the person who contacts CJsCs to raise the matter and open a file, the other people or organisations involved are identified as **Party B**, **Party C** etc.

Community Dispute is a dispute where a community, organisation, or group need to agree on a course of action, but the issues, options or constituencies are not clear. This type of dispute requires substantial intake procedure of a more analytical nature in order to identify the constituencies, clarify the issues and options.

Conflict Management involves the assessment of all of the aspects of the conflict and the planning of a course of action which will most likely result in the resolution of most if not all of the concerns. The three general approaches to conflict management are: conflict anticipation for potential conflicts; cooperative problem-solving for acknowledged but not highly polarised disputes; and mediation for highly polarised situations. Conflict Management is outcome-based, fosters direct negotiations between disputants, and includes a design for the future.

Dispute Advisory Service is the process where the Interviewing Officer assists a disputant to explore all the options available to them and the disputant chooses a course of action to resolve the dispute themselves.

File Opened is where Party A contacts CJsCs to arrange mediation in order to resolve the dispute.

Mediation is a process in which the parties to a dispute, with the assistance of a neutral third party (the mediator/s), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

Pre-mediation is a process in which a third party (the pre-mediator) investigates the dispute and

provides the parties or a party to the dispute with advice regarding the issues which should be considered, possible, probable and desirable outcomes and the means whereby these may be achieved.

Shuttle Mediation is a process in which the parties to a dispute with the assistance of a neutral Interviewing Officer identify the disputed issues, and further identify the issues which may be resolved by this process, develop and consider options for settlement and endeavour to reach an agreement without the parties being brought together or communicating directly. The Interviewing Officer has no advisory or determinant role on the content of the dispute or its resolution, but will continue to advocate direct communication as the most productive way of resolving all issues.

Standard Dispute is any dispute where the two parties or two sides to the dispute can be readily identified. There may be more than one person in either or both parties. The presenting party (Party A) at least recognises that there is a dispute and is able to say what the dispute is about. In CJC terms there will be a Party A and a Party B. There may also be A2, A3 and B2, B3, B4 etc, but the dispute is considered manageable within normal intake procedures - standard letters etc.

Statement of Unresolved Issues (SUI) is where parties who have not been able to reach agreement are assisted in writing a document which outlines the offers that may have been made, and the perceptions by each party of the dispute. This reminds parties how far they have come in understanding what has happened in the past, in understanding each other, and how they would like things to be in the future. Parties are able to look at the SUI at a later time and the transfer of these skills may assist the parties to determine ways to resolve their dispute after the mediation session.

