

25 February 2010

Anthony Courtney  
Department of the Environment  
Planning and Natural Resources Division  
3<sup>rd</sup> Floor  
Calvert House  
23 Castle Place  
Belfast  
BT1 1FY

Dear Mr. Courtney

**Response on behalf of Mediation Northern Ireland to the Public  
Consultation on a Draft High Hedges Bill**

Mediation Northern Ireland was founded as a charity in 1991 to promote the use of mediation. We provide mediation services and training for new practitioners. We also support the development of mediation delivery by community groups and public service organisations. For example, we have assisted the Housing Executive in the development of its Neighbour - Neighbour Mediation Service.

1. We welcome the approach outlined in the Draft High Hedges Bill. It is inline with contemporary thinking on conflict resolution in that problems should preferably be solved at source by the parties involved in the dispute. Then, that parties use mediation to seek help in achieving agreement amongst themselves. If this fails, there is a clear legal path to make a complaint.

2. We believe that mediation is strongly enough developed and provided in Northern Ireland to provide for the services envisaged in the Bill. Mediation Northern Ireland has perhaps the most developed structure for delivery of such services.

3. We believe that consideration should be given to structures for the delivery of quality mediation support for implementation of the Bill. We suggest that there are two potential approaches:

a.) Shared Service Delivery: where inline with contemporary trends, a single centralised service could be provided to councils.

b.) Council Arranged Delivery: where each council makes its own arrangements for mediation service delivery. This might include council training local mediators, either independent or in house.

**4. We propose that guidance be given to council on the nature of “evidence of having attempted to solve the problem through communication or mediation with the hedge owner” (Brief Description of Bill’s Provisions pg. 4 as it refers to 3.2).** This recommendation arises from the fact that the effectiveness of mediation is founded on the safety of a confidential process which is conducted “without prejudice”. Parties can more easily be facilitated in developing a collaborative, problem solving mindset. Therefore, if confidentiality of the process is not protected, it will lose its potential to stop complaints coming to council. We would be willing to consult further on this matter.

5. We have a concern that the mediator’s impartiality and independence needs to be protected. Therefore, the nature and level of evidence required by councils to determine that a complainant has provided “evidence of having attempted to solve the problem through communication or mediation with the hedge owner” (Brief Description of Bill’s Provisions pg. 4 as it refers to

3.2) may also need guidance. Again we would be willing to discuss this matter further.

If you require any further information with regards to the above or if you wish to discuss MNI's response, I would be happy to meet with you. Please contact Máire Patton using the contact details provided below.

Yours sincerely,

Peter O'Reilly  
Director  
Mediation Northern Ireland