



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-second Annual Report of the Community Justice Centre Program. The report covers the year ending 30 June 2005.

Deborah Sharp
Director
2005

Report Contents

Director's Report	p2
Aboriginal and Torres Strait Islander Program	p3
Policy and Project	p3
Regional Highlights	p4
Service Delivery	p5
Outcomes	p5
Referral Source	p6
Relationship between the Parties	p7
Services to Aboriginal and Torres Strait Islander Communities	p7
Nature & Complexity of Disputes	p7
How Serious are the Disputes?	p7
Glossary of Definitions	p9

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

CJC has seen continual growth in referrals and matters dealt with across NSW in the 2004-5 year. Considerable work has gone into continually developing and improving the relationships we have with key referrers. CJC offers training and information sessions, streamlined processes and protocols and works with referrers to channel matters suitable for mediation to CJs.

The NSW Law Reform Commission released its report on CJs with a range of interesting and useful recommendations. The Commission supported the work of CJs, made recommendations that will strengthen our service standards and supported the continuing involvement with and exploration of best strategies to deliver services to Aboriginal and Torres Strait Islander communities. The next step of revising the CJC Act is now underway and 2006 will see us with a new Act providing an up to date and supportive framework for CJs.

CJs organised a seminar for Law Week 2005 on 'Mediating Family Violence in Aboriginal and Torres Strait Islander communities – Is it culturally appropriate?' Thought provoking presentations were given by Heather Nancarrow, (Director, Qld Centre for Domestic & Family Violence Research), Chris Cuneen, (Associate Professor, Institute of Criminology, University of Sydney), Chrissiejoy Marshall, (currently completing a Phd. in Aboriginal Dispute Resolution) and Bill Pritchard, (Project Co-ordinator, Aboriginal & Torres Strait Islander Mediation Programs, CJs).

CJs was well represented at the 7th National Mediation Conference in Darwin which gave staff and mediators the opportunity to network across the ADR profession and gain up to date information on international and Australian issues in ADR. The conference included discussions about the development of national competency standards for mediation. CJs continues to be involved in this work to ensure that CJC mediators, competencies and standards are recognised in the developmental process.

During the year, CJs made presentations to delegations from Uganda, Thailand and Singapore giving us the opportunity to share information about our services and learn about international initiatives.

CJC continues to involve staff and mediators in consultative groups such as the Professional Reference Group, the Occupational Health and Safety Committee, Joint Consultative Committee and the Aboriginal and Torres Strait Islander Network. All consultative groups provide staff and mediators the opportunity to provide advice and feedback to the CJC Director and Management Team.

There were a number of nominations for the Attorney General's Achievement Awards 2004. Pat Frater, Katrina Spyrides and Leza Oliver in the Commitment to the Community Category, Annie West, Innovation and the Newcastle staff team for Communications Excellence. Leza Oliver won a commendation for her work in developing the services in the Campbelltown community and Katrina was the winner in the Commitment to the Community category for her excellent work of developing and presenting a very successful mediation program for Warilla High School.

The CJC Management team and I thank the forward looking and committed team of staff and mediators who continue to focus on providing excellent levels of service to the community of NSW.

Deborah Sharp



Aboriginal and Torres Strait Islander Program

CJCs continues to commit to providing best practice mediation, facilitation and conflict management services to Aboriginal and Torres Strait Islander people and communities, in line with the principles and objectives of the NSW Aboriginal Justice Plan.

There are currently a total of 48 Aboriginal and 4 Torres Strait Islander people, who are available to mediate throughout the state. The increase in numbers in the last 12 months has been due to the recruitment and training of twenty Aboriginal mediators from the Sydney region who completed training in December 2004 and have commenced mediating. A further 18 mediators have been recruited in the Western and Southern region and are due to commence training in August 2005.

The number of referrals from Aboriginal parties has remained stable (5% of total referrals) during 2004-2005 but it is planned that the significant increase in mediator numbers will assist in promoting the service in Aboriginal communities.

The elected executive of the Aboriginal and Torres Strait Islander Network (the Network) continues to meet quarterly to offer advice to the Director and the program on best practice issues in mediation in Aboriginal communities.

A qualitative confidential survey of Aboriginal clients has been completed in the western and northern CJC regions to help ascertain the satisfaction or otherwise with the services currently provided by CJCs to Aboriginal people and communities. The survey indicated an overall acceptance by participants of mediation, it being an appropriate medium for solving disputes in Aboriginal communities. The full results of the survey will be included in the final evaluation of the Aboriginal program which is currently being undertaken.

CJCs Aboriginal Program now produces a quarterly newsletter (Yarnin' Up) to better inform Aboriginal and Torres Strait Islander mediators of developments in mediation, the program in general and Network information.

Aboriginal staff and mediators have presented at various venues to promote the services offered by CJCs. These have included a series of 20 community forums around the state as well as other organisations including; legal studies students at Tranby Aboriginal college and the Blacktown Aboriginal legal service. CJCs continues to actively participate in forums conducted by the Australian Institute of Aboriginal and Torres Strait Islander Studies project into community mediation in Native Title applications.

Approval has been given for the creation of 2

permanent Aboriginal identified positions, to be attached the CJC Directorate. These are a senior Aboriginal project officer and a research/administration assistant. These positions will help to ensure that CJCs builds on current relationships with external and internal agencies and enhance the service currently offered.

Policy and Projects

The last year has been aimed at consolidating Community Justice Centre's (CJCs) position as a high quality, culturally appropriate Alternative Dispute Resolution Service. CJCs continues to consolidate its relationship with referral partners such as Local Courts, Law Access and the Department of Housing.

The past 12 months has seen a significant investment in training for CJCs staff and mediators namely in the areas of Domestic Violence and CALD Cross Cultural Awareness Training with pilot workshops being rolled out throughout the State.

In line with its Ethnic Affairs Priority Statement (EAPS) commitment CJCs has undertaken substantial CALD community consultation to ensure that services are culturally appropriate and accessible.

CJCs has worked with Local Courts, finalising referral protocols for Apprehended Personal Violence Orders (APVOs) and Small Civil Claims. The protocols have proved a valuable tool for increased consultation and quality measurement. The establishment of a Local Court CJC Working Party will ensure that this mechanism for review continues. CJCs has also worked toward the finalisation of referral protocols with Law Access. These protocols will streamline the process of referral from one Business Centre to another with a view to eliminating duplication of services and facilitating engagement with our mutual clients.

CJCs also has an important partner in the Department of Housing (DOH). With the release of DOH's Anti Social Behaviour and Nuisance and Annoyance Policies, CJCs were engaged by DOH to provide ADR training to two pilot regions, namely Wagga and Newcastle. The training was extremely successful and has resulted in an increase of appropriate referrals at an early stage. The outreach services have been commenced involving DOH and CJCs and innovative community development projects.

Participation within the NSW Legal Referral Forum has meant that CJCs has remained focused on building community partnerships within both the legal and non legal sectors.

The past year has been one of consolidation and establishing the framework that will facilitate future community and other Departmental partnerships, all with the objective of improving an already excellent ADR service to the people of NSW.



Regional Highlights

Northern CJs

The 2004-2005 period saw many achievements for Northern CJC. Community development has increased in the region with "Working with Difficult Clients" course. The course has been successful and has been conducted in numerous locations throughout the state.

A review of attendance at List days was conducted and completed. The review resulted in a more cost-effective use of mediators.

2004-2005 also gave increased opportunities to use Conflict Management services with involvement in a number for large disputes involving Aboriginal communities

Client service delivery has also improved, with CJC staff and mediators attending further training in Cultural Awareness, Guardianship Disability Advocacy and Flexible Service Delivery. The number of mediation venues in the Northern region has been increased to provide better access for clients. Attendance at Small Claims days increased and saw the introduction of solo mediations of Small and Civil Claims matters.

For Law Week May 2005 Northern CJC conducted information sessions at Newcastle Local Court. In Muswellbrook the local library was the venue for a well supported evening session. At Tweed Heads the Tweed City Shopping Centre was the venue for a market style information booth. An information session at Grafton Local Court was also held. Many legal and community organisations were present at the shopping centre for the law week event.

The following year will see further support for mediators in remote locations to undertake training and Technology Assisted Mediation Services (TAM) training will be conducted for mediators.

Southern CJs

Southern CJC concentrated its 2005 Law Week efforts in the Illawarra and Macarthur areas where administrative units are located. CJC partnered with other organisations within AGs, and community organisations to provide outreach and information in the courts, local schools and shopping centres and also featured in local media to raise awareness of CJs services. An open office day and luncheon was held for CJC referrers. A mock mediation was also arranged, allowing referrers to see first hand what happens in a mediation session.

Campbelltown office continues to expand, in May

office opening hours increased to four days a week. Much community development was done in the area with the local community as well as agencies to encourage referrals. Two of the most successful days CJs participated in were Liverpool's Bloomin Festival, and Campbelltown's Fishers Ghost festival where CJs generated a great amount of interest with a mock feuding neighbourhood atop a float!

An increasing caseload and strong networks have reflected our successful development of the Macarthur region, indicating both a support of, and a need for CJC services in the area.

CJC partnerships and ongoing interest in community education also saw Southern CJs working closely with Warilla High School, developing and implementing a Peer Mediation Program for its students, which has now been run twice in the school with great success.

In keeping with CJs commitment to learning and development of CJC staff and mediators, new and pilot training programs were also held across the region including Domestic Violence Awareness, Cross Cultural Awareness and Flexible Service Delivery.

Sydney CJs

Sydney CJC has experienced a steady growth in mediations in the 2004-2005 period. Figures show that during the reporting period, Sydney CJC mediators conducted over 60 mediations more than the previous year. Sydney CJC is averaging more than 15 mediations every week. This has come about from the strengthening of relationships with major stakeholders.

While there has been a slight overall increase in total referrals from the courts, there has been a major shift in the number of mediations the CJC has been involved in through the Small Claims listings (over 50%). This has been a result of commencing a Local Court working party through the year and has enabled many people to resolve their claims without having to proceed to the court.

A major step forward has been the establishment of an Aboriginal and Torres Strait Islander panel. During October and November CJC recruited and trained 13 Aboriginal and Torres Strait Islander mediators for the region. Developing relationships with the Aboriginal communities across Sydney is the next important step.

During Law Week in Sydney, CJC representatives were represented at major courts with information tables. Court staff and members of the public who were visiting the courts were able to receive information on mediations and have their questions answered. Representatives were present at



Parramatta, Sutherland, Burwood, Manly and Hornsby courts.

The major focus for the following year is to develop even stronger partnerships with stakeholders, providing information sessions with service providers who are in contact with those members of the public who are in conflicting situations and who will benefit from the services provided by CJC.

Western CJs

2004-2005 has seen Western CJC participate in the recruitment of Aboriginal mediators and also co-present various community information forums within the region.

The caseload of Western CJC has seen an increase in files opened. The referral patterns at Dubbo have been changed to earlier intervention than previously.

Local referral processes have resulted in increased referrals from Chamber Magistrates. Some of these matters may not have progressed to court (as indicated by client). This indicates that clients, who previously did not have a mechanism they considered appropriate to deal with their dispute, are now utilising a service.

The CJs Conflict Management service is in high demand with conflicts in Aboriginal communities, water users groups, incorporated associations, and workplace disputes which have been triggered primarily by restructures and increasing workloads.

A mediator weekly attends the Aboriginal service provider days at Riverstone. This reporting period has also see a range of Government and Non Government organisations convene together to provide a range of services to Aboriginal communities in the Hawkesbury area. Networks with other organisations have also been formed which have resulted in a increased knowledge and understanding of CJC services. Potential clients are aware of CJC services and are able to approach a mediator if and when the service is required.

Mediators now available at List days at Cootamundra, Bourke and Brewarrina. This is in conjunction with Women's Domestic Violence Crisis Service where the worker is also a CJC mediator trained in pre-mediation. If a matter for mediation comes up on the list they are then available to do a pre-mediation. This provides a additional service for clients of CJC in isolated communities.

A review of how Western CJC Region provided services to children and young people was conducted. The report and recommendations was delivered and distributed to the management team for consideration.

Western CJC participated in Law Week by presenting an information session in Dubbo.

The mentoring of new Aboriginal mediators, the introduction of regional meetings and activities to welcome new mediators into regional panels, learning and development support for mediators in their own local area will be developed. List days have been planned for Mudgee and Cowra.

Service Delivery

Matters are efficiently dealt with by CJs 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.

- 71% of files opened were closed and finalised within 30 days
- 96% were closed and finalised within 60 days.

These figures are comparable to the last reporting year in which 72% and 93% were closed and finalised within 30 and 60 days respectively.

Outcomes

The statistics show a slice of the services and outcomes provided by CJs, 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 premeditation service? 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.

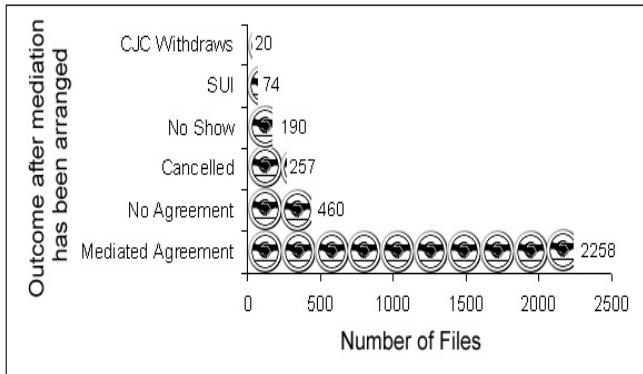
Files opened during the year under review totalled 7,306. Of the 2,812 matters that proceeded to mediation, 80% ended in agreement. Of all files opened 2515 (34%) were resolved to the satisfaction of the disputants (this includes matters resolved without the need for mediation).

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 2004/2005 reporting period mediation was arranged in 3,260 (45%) of files opened

Graph 1: Outcome after mediation has been arranged



- In the year under review, a mediation session was arranged in 45% of cases
- Where a mediation session was held, agreement was reached in 80% of sessions
- In 19% 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 257 disputes (4%) were resolved, without proceeding to mediation, to the satisfaction of the parties.

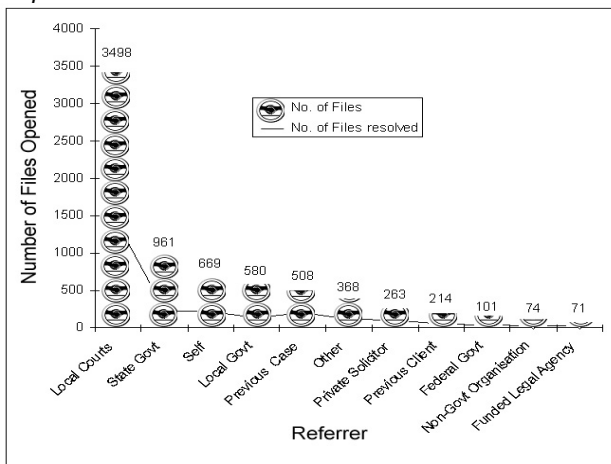
Referral Source

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 (1474), Chamber Magistrate (957), Registrar (565), List Days (388), Police (238), Private Solicitor (263), Legal Aid (157), Legal Centre (71), Family Court (82), Law Access (188), and Local Court Staff (164).

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

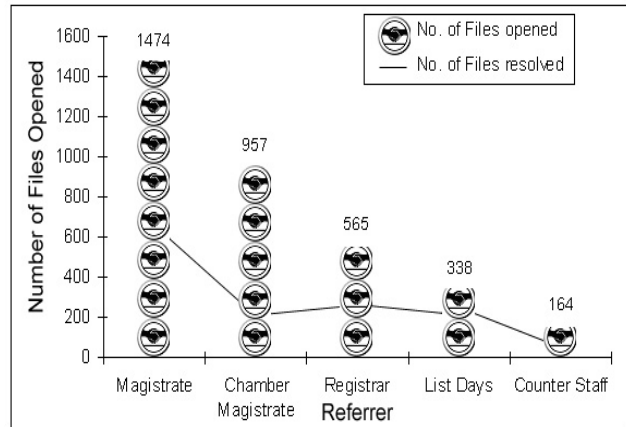
Graph 2 – Referral Source



Local Court Referrals

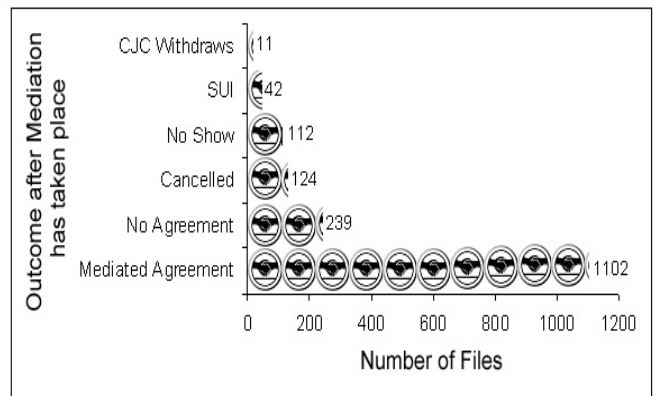
Local Court referrals are broken into five groups of referrers: Magistrates, Chamber Magistrates, List Days Registrars, and Counter staff.

Graph 3 – Local Court Referrals



The outcome of CJs 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



Apprehended Personal Violence Orders were involved in 1,215 cases (17%).

Relationship between the Parties

Neighbour disputes at 38% continue to be the most frequently represented in the caseload.

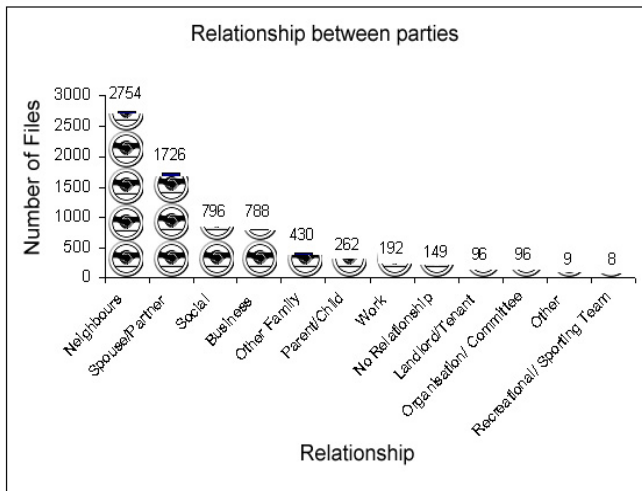
Family disputes account for 34% of the work of CJs, a slight increase from last year's 28%. Family disputes include those between separating or separated spouses, parent and child relationships as well as other family. Separating or separated spouses account for 71% of family disputes (compared to 2003-2004 65%).

Disputes involving adolescents or young adults and their parents account for 11% 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.

Graph 5 – Relationship between the parties



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 that the 5% CJC clients are from an Aboriginal and Torres Strait Islander community.

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.

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 13,706;
- the number of specific complaints recorded for all cases totalled 9,399; and
- the average number of complaints per case was 3.

The most frequently mentioned complaints were:

Behavioural Complaints

- Refusal to negotiate 2,460
- Shouting, abuse 1,966
- Inability to communicate 1,811
- Insults, taunts 1,177
- Money, debt 1,095
- Repeated refusal or failure to act on complaints 893
- Repeated complaints, regarded as trivial by recipient 611
- Noise – any source 495
- Threats of violence - things thrown 392
- Assault, Pushing, Punching 441

Specific Complaints

- Family – Contact 1201
- Invasion of Privacy 751
- Fence 743
- Residence of child 494
- Lifestyle, Environmental 478
- Division of property 424
- Children -Behaviour, noise, rudeness 358
- Parenting issues 312
- Children - Nuisance caused by, discipline of, Concern for care of 306
- Plants, Trees, Shrubs – nuisance caused by 273

How Serious are the Disputes?

Of the disputes dealt with by CJCs, 21% involve harassment, threats, property damage, theft or violence. 35% of these disputes were resolved.

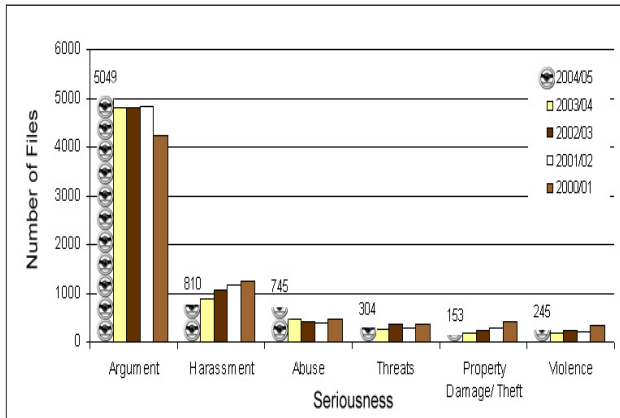
Examples of categories:

- **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 CJCs 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.

Aboriginal where the word Aboriginal is used through the document, it should be taken to include those people that are of Aboriginal or Torres Strait Islander descent.

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.

