



Community Justice Centres
Attorney General's
department of nsw

The Honourable John Hatzistergos,
Attorney General

Dear Minister,

I have the honour to present, pursuant to section 31(1) of the *Community Justice Centres Act 1983*, the twenty-fourth Annual Report of the Community Justice Centre Program. The report covers the year ending 30 June 2007.

Deborah Sharp
Director
2007

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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

The vision and objectives that drive CJs work are the:

- Promotion of Alternative Dispute Resolution (ADR) as an early intervention and diversionary strategy to reduce anti-social behaviour;
- Reduction of reliance on Courts to resolve disputes,
- Reduction of the cost and impacts of disputes to the community and individuals
- Positioning of ADR as an innovative, responsive strategy that is a part of a broad mainstream justice focus

This Annual Report outlines the range of strategies and projects to address these objectives as well as reporting on the ongoing work of delivering an effective and efficient mediation program as CJs has done for over 20 years.

Whilst the core of CJs work remains the same – delivering mediation and conflict management services - change has been a theme of 06-07.

The NSW State Plan was launched by the Government, identifying a number of objectives to which the work of CJC contributes. Further work was carried out to effect changes to the legislation to support these objectives.

CJs provides a contribution to the following objectives of the NSW State Plan

- Reduced rates of crime, particularly violent crime
- Reduced re-offending
- Reduced levels of anti-social behaviour
- Increased satisfaction with Government services
- Improved health and education for Aboriginal people
- Embedding prevention and early intervention into Government services.

Amendments to the following legislation have been made that will have an impact on referrals to CJs:

Amendments to Part 15A of the Crimes Act

Section 562N in particular names mediation under the Community Justice Centres Act 1983. These amendments, like those in the following body of legislation, are a proactive initiative by Government to increase awareness of mediation and direct parties toward resolving a dispute without litigation.

Trees (Disputes between neighbours) Act 200

The Court must now be satisfied that reasonable efforts have been made to try and reach agreement before it hears the matter with mediation presented as an alternative to litigation.

Amendments to the Family Law Act

Has changed the way CJs can provide mediation with an objective of developing a parenting plan

The CJC service delivery model was reviewed and changes piloted (not without teething problems) to effect a more consistent and streamlined intake and premediation service to CJC clients and referrers.

These changes ensure that CJs is in a position to extend and improve its service levels. This and the establishment of a statewide mediator panel with specialist skills in (Conflict Management, Assessment of domestic violence matters, Small Claims) will continue to ensure a high level of service.

Nationally the work to develop and implement a national mediator accreditation and practice standards framework continued. CJs contributed to this development and ensured that standards identified were met or exceeded by CJs current practice. The mediator-training program continued to be reviewed and assessed to provide

competency based training. Training looked at the requirements for staff and mediators and covered Aboriginal and Torres Strait Islander and CALD awareness training.

Established in 2002 the Aboriginal and Torres Strait Islander program now has 61 Aboriginal and Torres Strait Islander mediators providing ADR services to Aboriginal communities across NSW. The expansion of the program has required the development of specific Aboriginal and Torres Strait Islander training materials, coaches and mentors as well as an examination of the mediation model to ensure applicability to Aboriginal communities. The role of elders has been considered as well as more appropriate consultative mechanisms. Ongoing promotion, training and support is required to ensure the program continues to expand.

CJCs have implemented a number of strategic directions and responses to continue to build and deliver ADR services. Some examples of the work through this reporting period are:

- Implement early referral systems with Department of Housing as the largest landlord in NSW to identify disputes before they progress to the need for Police and/or Court intervention.
- Implement Conflict Management for large community disputes by developing relationships with key agencies in order to identify and respond to conflict before it results in violence.
- Continue to implement and improve a seamless process for dealing with disputes that come before Local Courts as administrators of applications for APVOs

- Continue work with all agencies to provide multiple referral points for neighbours experiencing conflict by building on E-referral system already in place with Law Access and implementing the same with DoH, Local Courts and other Government departments
- Develop effective peer mediation programs in schools to deal with unresolved conflict that can lead to bullying and violence.
- Continue to evaluate customer satisfaction through a range of client feedback strategies.
- Participate in a national network of state government based ADR agencies (NDRN). Representatives from Northern Territory, Queensland, Victoria, ACT and South Australia meet with us regularly to discuss national ADR issues and trends.

The strength of CJCs lies in its ability to address the changes, to continue to provide the service and provide clients with an opportunity to solve their disputes in a supportive, accessible environment.

I am pleased to advise that the work outlined in this report continues to bear fruit with positive feedback from clients, improved working relationships with referrers and proactive staff and mediators.

The CJC Management Team and I thank all involved with CJCs for their contribution and continued focus on providing excellent levels of service to the community of NSW.



Aboriginal and Torres Strait Islander Program

The Aboriginal and Torres Strait Islander Program continues to provide mediation and conflict management services to Aboriginal communities across NSW.

An evaluation of the first 3 years of the program was completed. The project analysed all aspects of the program – recruiting of Aboriginal mediators, allocating of work, ongoing support and the effectiveness of CJC interventions in disputes involving Aboriginal parties. Overall the evaluation found that CJsCs was providing an effective program as well as providing recommendations for ongoing improvements that have been endorsed by the CJC Management Team.

The CJsCs Aboriginal Network continued to provide advice and recommendation to the Director on all aspects of the Program.

Conflict management with families and community groups continues to be an emerging trend and CJsCs trained 8 Aboriginal and Torres Strait Islander mediators in conflict management skills.

CJsCs obtained funding from the Commonwealth Government for a 3-year program to provide training in conflict awareness to 12 communities across NSW. The objective of the Family Violence Prevention Program funding is to train community members in conflict awareness, conflict identification and basic conflict management skills. To date training has been provided to Maclean, Tweed Heads, Hawkesbury and Armidale communities. Evaluations have been very positive with requests for further training to be delivered.

The program continues to look for strategies that address the needs of Aboriginal communities.

Training needs of mediators, ensuring the service is accessible to Aboriginal and Torres Strait Islander people and communities is an ongoing commitment of CJsCs.

Policy and Projects

2006-07 has seen a continued focus on improved professional standards for both staff and mediators.

Values' based training has continued to be the focus for CJsCs with the aim of improving service delivery to all clients. 2007 has seen the implementation of assessable training for both staff and mediators in a variety of areas including Conflict Management, Pre-mediation, Communication skills, Agreement Writing and Family Law.

Work continues in the area of Domestic Violence (DV) with further DV training being delivered. CJC has worked closely with the Local Court in this area regarding referral processes and procedures. A DV Risk Assessment has been developed and policy review and development continues to be a focus in this area.

CJC continues to be involved in the Network of National ADR Agencies that are State Government based (National Dispute Resolution Network) and chaired the annual meeting this year in Sydney. 2008 will see the introduction of National Mediator Approval and Practice Standards. A joint submission was made to the University of La Trobe regarding these standards and the provision of national training.

There has been ongoing provision of practice and policy information to staff and mediators through regular newsletters, practice alerts and facts sheets.

CJCs continued its focus on building and maintaining partnerships with other Government Departments and key stakeholders including the Premier's Delivery Unit, Police, Crime Prevention, Department of Housing etc to work on establishing early referral, intervention and diversionary strategies to increase awareness and use of ADR and reduce anti-social behaviour, non-domestic violence matters and the consequential reliance on the court system.

CJC's continues to work closely with the Local Courts and has worked collaboratively to develop referral processes and procedures. Referral protocols have also been developed with the Department of Housing (DOH) with the CJC now delivering training in the induction process of new DOH staff.

As part of a strong commitment and focus of the future of ADR in NSW the CJC has continued to work on its review of service delivery, which has included the implementation of a centralised intake office to streamline intake processes. CJC has also continued its work on the changes to the *Community Justice Centres Act (NSW) 1983* based on the 2005 Law Reform Commission Recommendations.

Highlights

Further to the achievements already outlined, activities worthy of specific mention include:

1. Training
2. Partnerships

1. Training and development of staff and mediators

CJC conducts regular training for staff and mediators. During 2006/07 the Department set an annual training target for staff. CJC has met these requirements with staff being trained in Family Law Changes, Premediation, Communication Skills and Dealing with Difficult clients.

Mediators were offered assessable training in Note Taking, Agreement Writing, Small Claims, Premediation, Conflict Management and Demystifying Mental Illness. The Skills Update training course has continued in its two year run.

This course is compulsory training for all mediators and embraces the theme of Working Within an Ethical Framework. By the end of the year all mediators will have received this training, which is one of the core competency units in the Certificate IV in Community Mediation.

CJC is increasingly developing training content to align with the requirements of the Certificate IV course. This is to facilitate those mediators who wish to formalise their skills and work towards a recognised qualification.

2. Partnerships

CJC is dependent on referrers to direct clients for mediation. To this end, there is a continuing need to develop and maintain partnerships and strong ties with key referrers.

CJC maintains strong partnerships and close working ties with other departments and organisations, delivering training and information sessions to Police, Department of Housing, Local Councils, the Law Society and various community organisations.

During 2006-07, CJC became involved in a Premier's Department initiative from the Premier's Delivery Unit. A Crime Prevention Partnership was piloted in four areas of New South Wales, with CJC actively involved in three locations. These were Eastern Beaches in Sydney, Lake Macquarie in Newcastle and Canoblas in Western NSW. The aim of the partnership was to reduce non-domestic violent assaults in these areas. CJC worked closely with Police, Department of Housing and Local Councils to achieve reductions through early intervention. In each area, extensive training and information sessions were conducted with partnership staff. Referrals to CJC from each partner were dramatically increased over the year.

Service Delivery

Dealing efficiently with client disputes remains a priority with CJsCs. Every effort is made to bring a matter to mediation as soon as possible, taking into account the time taken to write to parties and wait for a response. In some instances the process may take longer due to complexity of the case or the time taken by a party to decide to take part.

Statistical Trends

Statistics show that the Local Courts continue to be the CJsCs highest referrer. Referrals from the Local Court have increased from 49% in the previous financial year to 51%. This figure reflects the on-going partnerships between the CJC and the Local Court. This figure is anticipated to increase significantly following the introduction of mandatory referrals.

Disputes between neighbours have increased from 37% in the previous financial year to 41%. This continues to be the most common relationship type attending mediation.

2006/07 has seen a decrease in the percentage of family law matters dealt with by the CJC. The figure has decreased from 35% in the previous year to 28% this year. This decrease is attributable to the changes in the *Family Law Act*, which restricts the type of mediation the CJC can provide.

During 2006/07-

- 64% of files opened were closed and finalised within 30 days.
- 94% of files opened were closed and finalised in 60 days.

Previous years have seen 71% of matters finalised in 30 days and 94% finalised in 60 days. These figures reflect the more complicated nature of matters that are being referred to CJC.

Outcomes

CJC gathers statistics in a continuous process of analysing outcomes of mediations and referral to mediations. Whilst a mediated agreement is the general aim in getting disputing parties together, there is a growing consensus that the mediation process is in itself beneficial to clients. This is because the early stages of mediation bring the cause and effect of disputes to the fore and clients leave the mediation room with a deeper understanding of the issues.

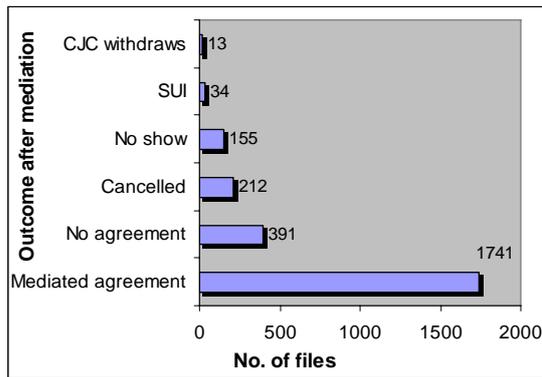
The important factor required for a successful mediation is willingness for clients to meet and a desire to resolve the problem. For this reason, the *Community Justice Centres Act 1983* Section 23, provides that: *Attendance and participation in mediation session is voluntary.*

The experience of mediation sessions 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. This has been the CJC experience over the years and remains the case in this reporting period.

Files opened during the reporting period totalled 6,410. Of these, 2,546 mediation sessions were arranged (40%). From these 2,166 matters proceeded to mediation (34%).

Of the matters that proceeded to mediation, 1,741 sessions (80%) ended in an agreement being written. Of all files opened 1,930 were resolved to the satisfaction of parties (this includes matters resolved by CJC without the need for mediation).

Graph 1: Outcome after mediation has been arranged



In the reporting year:

- Mediation was arranged in 40% of cases
- Where a mediation session was held, agreement was reached in 80% of cases
- In 23% of cases, CJC was unable to contact or had no response from Party B
- Party B declined mediation in 18% of all cases
- A further 189 disputes (3%) were resolved to the satisfaction of the parties without proceeding to mediation.

Referral Source

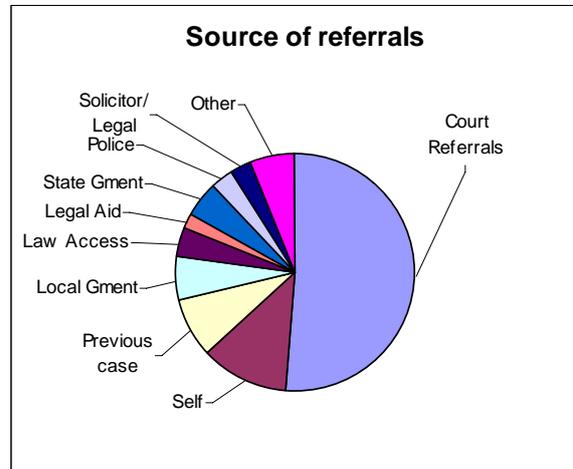
The major source of referrals is from the courts. Court referrals represented 51% of all referrals during the year. Graph 2 shows the break up of major referrers. The breakdown of referrals is:

Courts 3288 (51%), Self 749 (12%), Previous case 486 (8%), Local Government 369 (6%), Law Access 245 (4%), Legal Aid 155 (2%), State Government 292 (2%), Police 217 (3%), Solicitors / other legal 203 (3%), Other 414 (6%).

Court referrals include Local, Children's and Family Courts, with Local Court being the largest referrer (49%). Self includes finding out through word of mouth, publications or through someone who has previously used the service. State Government is government departments other than courts, police and Law Access mentioned here.

Other refers to all other referrals including Federal Government, Non Government Organisations, relationship / counselling services, doctors, real estate agents, etc.

Graph 2 – Referral Source

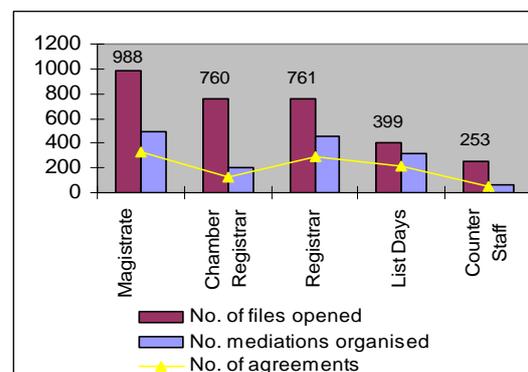


Local Court Referrals

Local Court referrals are broken into five groups of referrers: Magistrates, Chamber Registrars, Registrars, List Days and Counter Staff. Graph 3 shows this break up and also records the outcome of referrals proceeding to mediation and the outcome of mediations being resolved.

The standard of referrals producing an outcome of mediations is just as important as the standard of mediation producing an agreement. CJC is looking to developing and delivering training to referrers to increase the percentage of clients agreeing to mediate.

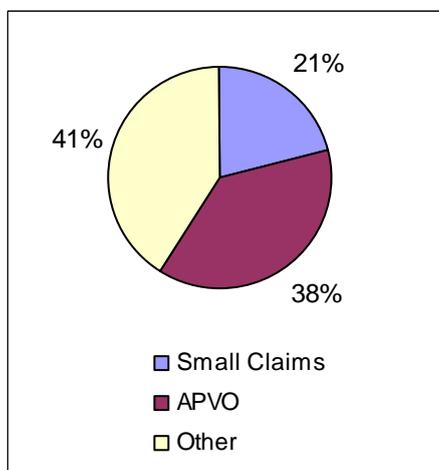
Graph 3: Local court referrals and outcomes



Types of matters referred by Local Courts

Local court referrals cover two main types of disputes. Referrals from magistrates tend to deal with Apprehended Violence Orders or applications. Referrals from Registrars result from applications for Small Claims. Referrals from Chamber Registrars and court staff are general, although many of these would become AVO's if early intervention were not implemented.

Graph 4: Types of matters referred by local courts



Relationship between Parties

Disputes between neighbours represented the most frequent type of issue attending mediation during 2006/07.

Family disputes accounted for 28% of the work. This is down from 35% in the previous year. Family disputes include those between separating or separated spouses, parent and child relationships, as well as other family. Spouse mediations accounted for 73% of family disputes (down from 77%).

Many disputes between adolescents and their parents came from the Children's Court where an irretrievable breakdown in relationship seemed to be occurring. Success in these mediations enabled the young person to remain at home, reducing the likelihood of risk behaviour.

These mediations represented 9% of family related mediations.

Access to Services

CJCs continually monitor the demographics of our clients to gain an understanding of which communities are accessing and utilising the service.

Services to Aboriginal and Torres Strait Islander Communities

This reporting period has seen that 3% of clients contacting or referred to CJC are from an Aboriginal and Torres Strait Islander background. The data collected does not include those clients from the community who responded to a request from someone else, so the total number of clients would be more than this figure.

Services to Culturally and Linguistically Diverse Clients

CJC has changed the performance measures to also reflect access to services by CALD clients. A focus on specific data on the number of sessions with at least one party born outside Australia can be reported on over the next reporting period.

Nature and Complexity of Disputes

The method of classifying the nature of a dispute is taken from the person initially requesting CJC services. This method recognises the separate components of:

- The disputing behaviour (behavioural complaints); and
- The presenting problem (specific complaint).

For the reporting period:

- The number of behavioural complaints totalled 13,288;
- The number of specific complaints for all cases totalled 9,874.

The most frequently mentioned complaints were:

Behavioural complaints

| | |
|--|-------|
| Refusal to negotiate | 2,643 |
| Shouting or abuse | 1,949 |
| Insults / taunts | 1,218 |
| Money / debt | 1,145 |
| Inability to communicate | 1,068 |
| Repeated refusal or failure to act on complaints | 626 |
| Repeated complaints regarded as trivial by recipient | 570 |
| Noise – any source | 444 |
| Threats of violence, things thrown | 445 |

Specific complaints

| | |
|---|-------|
| Invasion of privacy | 1,267 |
| Lifestyle, Environmental | 870 |
| Family contact | 686 |
| Fence | 639 |
| Parenting issues | 478 |
| Goods/ services – refusal to repair or refund | 409 |
| Division of property | 359 |
| Goods/services – non-delivery | 351 |
| Plants, trees, shrubs - nuisance caused | 305 |
| Residence of child | 303 |
| Generation | 263 |
| Children behaviour | 256 |
| Animals, birds | 218 |
| Children, nuisance caused by | 195 |

Dispute seriousness

CJC categorises disputes according to seriousness: The numbers on graph 5 correspond with the following definitions:

1. Argument – parties are unable to reach agreement or are unable to communicate.

2. Harassment – involves repeated attempts to embarrass / annoy.

3. Abuse – includes heated and repeated arguments ending in insults or written abuse.

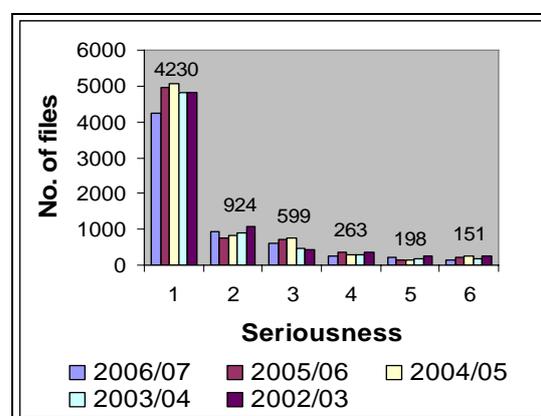
4. Threats – include threats of violence or property damage, threats of legal action.

5. Property damage / theft – includes deliberate damage to property, alleged theft, accidental damage with no intention to repair.

6. Violence – there has been a violent act against a person.

Disputes are usually multi-faceted, frequently involving complex and/or multiple issues

Graph 5 – Seriousness of disputes



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

Future Developments

The next financial year will see many changes in the services provided by the CJs.

2007/08 will see the implementation of the changes to the *Community Justice Act*. The focus will continue to be on integrating ADR across all judicial systems in NSW, to ensure the most effective provision of ADR to Courts and other Government departments.

The proposed changes to the Community Justice Centres Act will allow expansion of CJC statewide services, and see significant changes in the practice of the CJs.

The proposed changes will seek to allow CJC to accept mandatory mediations from Courts and tribunals in an aim to re-allocate court time and deal with appropriate matters without the need for the Court. The changes seek to introduce a payment schedule for mandatory referrals and conflict management services.

The proposed changes will also seek to clarify the employment status and relationship of CJC mediators to the Department. It is also proposed to implement mandatory reporting requirements for mediators, where there is a reasonable suspicion that a child is at risk of harm.

With the proposed changes to the Act, assessable training for both staff and mediators will continue to be a focus for the CJC to ensure that high quality customer service continues to be delivered statewide.

2007/08 will see the CJC continue to focus on customer service standards and implement a review of customer service strategies to better identify customer satisfaction.

CJCs will continue to work closely with key stakeholders to streamline CJC and ADR services across the Department.

In particular, CJCs will continue to work in partnership with the Local Court and will seek to implement training programs for Court staff, registrars and Chamber Registrars in the areas of dealing with difficult clients, complex issues, pre-mediation and facilitated negotiation in 2007/08.

In 2007/08 the CJC will continue its partnership with Crime Prevention to implement the State Plan objectives of reducing re-offending by working together to develop early intervention and diversionary strategies for minor criminal offences.

Glossary of Definitions

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

Party A is the person who contacts CJs 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. Conflict Managements involve multiple parties with multiple disputes. 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 CJs 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.

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.

