

Synopsis of Judicial ADR Liaison Committee meeting held on 18 January 2021

The matters arising discussed were:

- Outstanding actions from previous meetings were covered.
- The Chair announced this was their final meeting, a successor will be announced in due course.
- The Employment Tribunal member has been promoted to President of the First Tier Tribunal (War Pensions and Armed Forces Compensation Chamber). It was agreed that their membership will continue and a new representative from the Employment Tribunal will be sought.
- The online dispute resolution (ODR) platform is no longer available to UK consumers following the UK's EU Exit. The Chartered Training Standards Institute have been asked if any replacement would be made available.

Update from subcommittees

Education of the professions and others

- The subcommittee plan to send a survey to law departments to find out if/what aspects of ADR are taught and if there is any appetite for further engagement.
- Possible prizes for an essay competition were discussed including work experience.

Extra Judicial

- The subcommittee has been in touch with the Director of the Ombudsman Association to discuss doing a workshop or breakout session at their conference (scheduled for October 2021). There is interest in signposting and showing collaboration between different parts of the system, including the work of this committee.
- Details of the Redress Reform Working Group were provided. The group was put together by the Ministry of Housing, Communities and Local Government, focusing on housing and land disputes. It is voluntary and has no funding, there is little chance of regulatory change and so it is being used as a collaborative forum.

Awareness and encouragement

- The subcommittee has begun a desktop analysis of what information and schemes there are for SMEs regarding ADR and what the gaps are.
- An SME was defined as a company with up to 250 employees and a turnover of up to £25 million. There are 5.9 million SMEs in the UK (Federation of Small Businesses (FSB) report in early 2020).
- The subcommittee found some of the most common types of disputes for SMEs are contractual disputes, disputes between partners or shareholders, and employment disputes. Preliminary analysis suggests that fast-track cases between £10,000-£25,000 would be the most suitable for mediation as there are no existing schemes for SMEs.
- It was agreed that the paper on Kent, Surrey and Sussex mediations were encouraging.
- A desktop analysis of some prominent organisations has been completed to see if ADR was included on their website. The FSB website returned no results for ADR nor mediation. There was little mention of ADR or mediation on the British Chambers of Commerce and the other regional Chambers of Commerce websites. The London Chamber of Commerce was the exception and has recently set up London Chamber of Arbitration and Mediation.

- The need for a government hosted central website with information about what ADR is and the different types of ADR that are currently being employed by the courts was raised. This was a recommendation in the 2018 CJC [report](#) on ADR.
- It was wondered whether insurance liability was an influencing factor on the willingness to promote and engage in ADR.
- A paper from the LawTech Delivery Panel on ADR and SMEs will be shared when it is made public.
- MOJ are setting up a Dispute Resolution Unit which will bring together policy, resource and people specifically dedicating to pushing ADR in tribunals, civil and family.
- Creating an organigram of the different bodies working on ADR was suggested.

Rule changes

- Attempts to reach a contact to provide the committee with information on what the rules are for mandatory mediation in India have not been successful.
- A member will contact a colleague at the New York State Bar to find out more about how ADR is used there.
- The subcommittee discussed Small Claims Mediation Scheme and pilots within the scheme.
- A brief update was provided on user insight work that HMCTS has been doing on understanding reasons why parties opt out of mediation. At present there is capacity for everyone seeking appointments for mediation with the Small Claims Mediation Service.
- A paper on a trial mandatory 2-hour meeting for claims listed for 5+ days hearings in employment tribunals will be shared with the committee. Anecdotal evidence showed that whilst parties may not settle, the issues are significantly narrowed.
- Early neutral evaluation and/or dispute resolution hearings that are being run in Birmingham, Manchester and Birkenhead were also raised. A member who had conducted many of these, all via telephone, reported that once parties engaged in the process it worked well.
- Small businesses who are having issues with getting payment from parties who claim poverty through corona virus and illness was raised as an issue the Awareness and Education subcommittee may wish to consider.

Mediation in Possession

- The pilot for mediation in possession has been announced by the government. It will begin in February 2021 to run for approximately 6 months.
- The provider will be announced shortly.
- The pilot is designed to help with the expected surge in possession cases following the lifting of the stay.