

## Synopsis of Judicial ADR Liaison Committee meeting held on 24 May 2021

The matters arising discussed were:

- Outstanding actions from previous meetings were covered.
- Minutes from the previous meeting were agreed.
- Ruth Harriford was introduced as the Deputy Director in Ministry of Justice (MOJ) responsible for the Dispute Resolution project. Ruth works in a job share with Charlotte Middleton.
- The Lord Chancellor's speech at London International Disputes week was raised as it refers to mediation. The full speech can be found [here](#).

### **Update from subcommittees:**

#### *Education of professions and others*

- The group have met a couple of times along with the awareness subcommittee.
- The survey to Law Faculties, looking at ADR at undergraduate level, has had a number of responses. Although there are some positive responses, there is not an overall common theme and the approach is fragmented. The possibility of an Undergraduate ADR essay competition was met generally with a positive response.
- It was suggested that the prize for the essay writing competition should be work experience or something similar which gives students a more tangible feel of dispute resolution.
- It was suggested that a useful next area of focus for the group, along with business schools, may be look to the providers of professional exams to see what part (A)DR plays in courses.

#### *Awareness and encouragement*

- The subcommittee provided a written update covering ADR in the SME sector.
- The group carried out a desktop survey of SMEs to research the needs of the sector.
- The focus of the subcommittee has been on improving the system as it currently is. As the landscape changes, the committee must also consider where it is going in the future.
- The importance of a comprehensive website was raised as an obvious way forward. MOJ agreed this is a useful avenue to explore further.
- The text for an interim 'signposting' webpage was forwarded to MOJ from the Civil Mediation Council (CMC). MOJ are working to get the text uploaded to Gov.uk as soon as possible.
- The CMC, along with the Society of Mediators, are looking into where to signpost people looking for community mediators. A review will follow.
- A member of the group reflected on general awareness of Ombuds-scheme gaps that vary.
- A member is working on a signposting document for different Ombudsman that is easy to digest and consistent. They will share this document as it progresses.
- The importance of an integrated scheme and that how people find and digest the information was highlighted. It was suggested that the group consider using videos. The [family mediation video](#) was used as an example.
- There was a discussion about the overlap between the awareness and education subcommittees.
- The committee agreed to merge the 'Education of professions and others' and 'Awareness and encouragement' subcommittees, although there may be areas in the future where the workstreams have to separate out.

### *Rule changes*

- There is going to be lots to consider in terms of rule changes as reform goes ahead and the attitude to (A)DR changes.
- The judiciary are currently exploring a mediation scheme in the High Court and it would be useful to have a set of standard directions.
- An issue was raised about the work of the subcommittee. The group are facing a dilemma in that they have little resource to do anything and the steer from policy is that a lot of the rule changes are context dependent.
- It was suggested that the emphasis of the subcommittee needed to be rethought, with the group in future acting like a parliamentary select committee, convening meetings on major areas of dispute resolution. This change of focus would allow the subcommittee to hear from specific areas about how dispute resolution is working at present.
- It was agreed that the rules sub-committee could approach one subject per meeting, using the expertise of the wider committee as a way to facilitate the discussion.
- It was suggested that at the end of each area focused meeting, the subcommittee could produce a proforma that shows how each area is working at the moment.
- The group agreed that property would be the first area to be considered.
- There is a CJC working group on Pre-Action Protocols looking at how to make the process simpler for LiPs. The group is considering the whole landscape of PAPs and how they are created. It is likely to report in Autumn 2021.

### *Extra Judicial*

- The extra-judicial committee were also looking at next steps in terms of a focus. Recommendation number 9 in the CJC's [ADR and Civil Justice report \(2018\)](#) suggests "illustrations of the successful use of ADR in settling entrenched disputes could be included". The subcommittee are looking at case studies, this may play into the 'select committee' approach by looking at how (A)DR is working on the ground for a specific subject area.
- Work has continued on the horizon scanner paper. A member of the subcommittee has spoken to several of the competent authorities and will try to speak to all about how they would like to talk about their work.
- It was agreed that pausing the work until the White Paper from BEIS has been received to see what arises out of this paper in terms of mandatory (A)DR in certain areas was sensible.
- A member raised that the horizon scanning paper appears slightly unbalanced at the moment in relation to the mediation and use of ADR in the private sector.
- It was clarified that although there are useful parallels with Family, the terms of reference for the committee refer explicitly to the Civil Justice System. There is no one in the membership that brings a family specialism and the terms of reference may need to be amended. It was suggested that Family is something that is touched on rather than brought in fully.
- Two members agreed to consider what should be included in the paper about Family and engage with relevant areas in Family offline.
- The horizon scanning paper started off as a scoping exercise.
- The Tribunals area has been a success and it has prompted some thinking about how (A)DR can be incorporated. Looking at the subject matter experts is a useful next step.
- All the groups were thanked by the chair for their work.

### ***Mandatory ADR report for the Master of the Rolls***

- The committee were thanked for their helpful and constructive comments. It is hoped the majority of comments are reflected in the tracked changes version of the report.

- The paper is a general exploratory paper and the subject is dealt with in a comprehensive and succinct manner.
- The authors are keen to be able to say, if they can, that the committee approves the report.
- There are some comments not reflected in the draft that may be considered in the future.
- General points about the advantages and disadvantages of ADR are not covered, neither are specifics of ADR.
- It was agreed that the paper is a welcome platform in rethinking dispute resolution. In the next paper, it would be useful to consider where the real gaps are in the judicial system in terms of dispute resolution.
- The group agreed to endorse the report.
- Three members of the committee attend on behalf of representative bodies: Law Society, CILEX and Bar Council. All three individuals endorsed the report individually however they clarified that their remit does not extend to endorsing on behalf of the bodies they represent.

***AOB***

- The next meeting of the committee will take place in July.