

Kluwer Mediation Blog

CEDR's Sixth Mediation Audit 2014

Deborah Masucci (International Mediation Institute) · Friday, June 27th, 2014

For the sixth time in the past 12 years, CEDR, the UK's Centre for Effective Dispute Resolution, conducted a 10-minute online survey of UK civil and commercial mediators during May 2014. Raw data has not been published but the results summary was released on May 22nd (available [here](#)).

Almost 295 mediators responded (18% up on the 238 that responded to the 2012 survey). 22% of those responding were "novices" (had passed basic mediation training but had no experience as a lead mediator) and another 22% were "intermediates" (had some or limited experience of mediating). 56% described themselves as "reasonably" or "very" experienced, undertaking more than 10 mediations a year.

CEDR's survey summary indicates a slowing of the mediation growth rate. Based on mediators' stated case loads, the civil and commercial mediation market increased by 9% since the 2012 survey, a lower rate than suggested by previous surveys, and now stands at an estimated annual 9,500 cases. Put into some perspective, this represents less than 1% of the 1,500,000+ new civil (excluding family) claims filed in England and Wales annually. Average fees for a one-day mediation declined 6.3% since 2012 to £1,422 for the less experienced mediators and by 10.7% to £3,820 for the more experienced. Only 32% expected to be mediating more in the future, down from 38% in 2012. The most successful mediator surveyed earned over £8,500 per case and undertook 80 cases a year.

Responders to the survey reported that 75% of their cases settled on the day, and another 11% shortly afterwards, indicating an average settlement rate of 86%, only slightly down from the previous two surveys (89% in 2010 and 90% in 2012).

Mediators were asked in the survey to rank the factors that they believed most influenced why they secured commercial mediation assignments. Their top six were:

1. Professional reputation – experience/status
2. Availability
3. Professional background/qualifications
4. Recommendation – by lawyer in previous case
5. Fee levels
6. Sector experience

CEDR had also surveyed some lawyers in private practice with a similar questionnaire. The

lawyers ranked the factors that most influenced mediator appointments rather differently:

1. Availability
2. Professional reputation – mediation style
3. Professional reputation – experience/status
4. Professional background – qualifications
5. Fee levels
6. Sector experience.

It is interesting to compare the results of the CEDR survey to the results of the International Mediation Institute's International Corporate Users Survey conducted among 76 in-house counsel in January-March 2013. This revealed that in-house counsel took a different viewpoint on the factors that most influenced mediator appointments (availability was not offered as an option, because it was considered obvious):

1. Experience as a mediator
2. Past experience with a particular mediator
3. Mediator's personality and attitude
4. Independently verified feedback from users
5. Expertise in the core issue of the case
6. Evidence that the mediator's competency has been independently assessed.

Sector experience and experience in the role of a mediator seem to be the common thread but feedback and independent competency assessment ranked highly (neither was offered as an option in the CEDR surveys). The IMI survey can be found [here](#).

CEDR observed that the UK mediation market remains dominated by a few mediators, with about 130 mediators being involved in about 85% of non-scheme commercial cases (i.e. direct referrals and cases referred to service providers), though the size of this group had increased by an estimated 30% since 2012.

Not surprisingly in a soft market, most mediators surveyed (76%, up from 66% in 2012) believed that the civil justice system should more actively promote mediation.

The CEDR and IMI surveys are useful and revealing indicators of the health and strength of mediation. The surveys also provide a perspective of what different stakeholders view as important in the selection of mediators.

One question that is not asked in either survey is whether the lack of a uniform mechanism to enforce mediated settlement might also impact the growth of mediation. It is the commentators' view that confidence in the ability to enforce mediated settlements across borders would significantly increase the use of mediation globally.

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The graphic features a black background with white text and a circular icon. The icon depicts a magnifying glass over a group of stylized human figures, representing a search or investigation process. The text is arranged in a clean, modern layout with horizontal lines above the main heading.

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