

Kluwer Mediation Blog

The Elephant in the Room – Part 2

Sabine Walsh (Sabine Walsh Mediation) · Sunday, October 8th, 2017

What a different a month makes! A new EU Recommendation on Mediation, the launch of this year's Mediation Awareness Week and a brand shiny new Mediation Act, 2017. Yes, the long awaited legislation that I have been blogging about for years now was finally signed into law by the President this week. This development fits perfectly into the discussion I started last month on the lack of mediation work and the marketing we need to do as mediators to get ourselves those cases.

The Mediation Act is in itself likely to (and in fact designed to) bring about an increase in cases going to mediation due to the obligations it puts on lawyers and the powers it gives to judges, but you'll have to tune in again next month to see what those are. This month I want to see how the new law can help us as practitioners do what we can do in terms of marketing our services and getting work.

The enactment of the Mediation Act shows that in Ireland at least, the recommendations of the EU to do more to promote mediation, by means of legislation and raising awareness, are being listened to. (1) Beyond meeting international requirements and promoting mediation at state level, the Mediation Act has given us an excuse to do what we need to do much more of to get more work – talk about mediation.

I know, most of already do talk about mediation, to anyone who will listen, but now, to put it bluntly, we have a law to back us up. At the risk of giving away any secrets, my own most successful marketing strategy has been speaking – to the right audience – about mediation publicly. This right audience can be lawyers, human resources professionals, nurses, teachers, school kids, really anyone who might benefit from knowing about mediation. A new law is a great thing to talk about, so can provide the perfect platform from which to speak. More than that though, what the Act will give mediation in Ireland, and thus Irish mediators, is a legitimacy that we have worked years to achieve. Having for a long time inhabited the world of “alternative” solutions, and all the preconceptions that come with that term, the endorsement by mediation of the government, and its integration with traditional dispute resolution processes is worth an enormous amount when attempting to persuade potential clients, and their advisers, that mediation is worth considering.

Given the emphasis in the Act on professional practice and standards (despite not setting any) it is time for us to up our game on this front as well. By this I mean that we should ensure we can present our training and qualifications (it goes without saying that we have the aforementioned...right??) and any additional study or practice we have engaged in accurately and

proudly to potential clients. In the under-regulated world of mediation, being able to stand out due to our training, knowledge and skills is a huge selling point and we should be happy to show these off.

We also, and I very much include myself in this, should let go of the idea that we can't or shouldn't charge that much (or at all!) for our services because they are helpful, for the greater good, or, as in my case, because we feel bad about charging people for a few hours worth of crying and fighting. The more mediators are seen as well trained, highly skilled professionals, the more people will value our services and recognise them as a first port of call in a conflict situation, rather than the lawyers office.

Finally, the Mediation Act seeks, in the future, to create a Mediation Council, one of the main roles of which will be to promote awareness of mediation. We don't know if and when this might happen but in the interim, there is strength in numbers. Join an organisation or a network where many voices can come together to promote mediation but also where you can meet other mediators, network and collaborate, and most importantly learn from those who have been working in the field for longer and are doing a lot of mediation. Mediation will beget more mediation so we should not be afraid of linking with our "competitors" and sharing approaches and strategies for building our business. Isn't that what this blog is all about after all?

For more on the Mediation Act 2017 (2), how it might work in practice and what we mediators will need to watch out for, call back next month...

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<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0321&format=XML&language=EN>

2. Official text not yet published on government website at time of writing but Bill as passed is available at <http://www.oireachtas.ie/documents/bills28/bills/2017/2017/b20c17d.pdf>

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