What is the difference between an online auction website and Her Majesty's Courts and Tribunals?

Kluwer Mediation Blog
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Please refer to this post at about 30,000 feet. What is the difference between an online auction website and Her Majesty’s Courts and Tribunals?

Less than you might think, according to Sir Geoffrey Vos, the newly appointed Master of the Rolls. The Master of the Rolls is responsible for the administration of civil justice in England & Wales. Sir Geoffrey was sworn in on 30 March 2021. He has spoken several times since then about his vision for a system of civil justice which integrates all types of dispute resolution.

This vision has come from his observation that many consumer facing websites like eBay manage to receive tens of millions of disputes every year, almost entirely without involving judges or courtroom. They have a panel of providers which allow parties to try to settle their dispute, then perhaps involving some automation, then eventually reaching a decision, depending on the size and complexity of the dispute. These processes have very high cost-benefits.

Should the Court Service learn something from that?

Sir Geoffrey thinks so. We can incorporate all forms of dispute resolution into an integrated system, with the majority of the action being managed online. This is the system that the Court Service is currently engaged in. This is coming from a situation where the court system is considered to be something around entirely separate from other forms of dispute resolution. Indeed, all other forms of dispute resolution are now referred to as “alternative dispute resolution”.

This post focuses very much on the latest developments in the UK. An interesting question therefore is, “Is it the business of the court service to involve itself directly in other forms of dispute resolution? Surely it is”.

Sir Geoffrey envisages an elegant, joined-up system, where all disputes start in the same place and are guided through whatever the most appropriate resolution service might be. Each dispute might attempt several different types of resolution before eventually being settled. All of this would be managed by the Court Service.

From a technical point of view, can the public sector implement something like this? Can the Ministry of Justice be a one-stop-shop for all dispute resolution procedures? And used AI to prompt the parties to attempt the most appropriate procedure for their case, at the most appropriate time.

Lots of processes can be instant online already, but the services are very disjointed. You might have a case with the Revenue & Customs, but if that doesn’t resolve satisfactorily you can’t start again with, say, a mediator. If the mediation failed, you have to start a new case with the Court Service.

The political objection is: is it the business of the Court Service to involve itself directly in other forms of dispute resolution? Surely it is not.

This is not just the usual “let’s encourage ADR to take the pressure off the courts” type of talk, which we hear all the time. Sir Geoffrey does see it very seriously.

“What we are talking about is the ultimate integration of all forms of alternative dispute resolution. As head of Civil Justice, this is what I am hoping to achieve in the months and years to come.”

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If the dispute sits in an integrated online process, managed by the Court Service from start to finish, it seems likely that parties will attempt other forms of dispute resolution if they are offered and enforced. It is not enough just to have a court system and leave everything else to the private sector. It is no coincidence that a huge amount of the action takes place online. At the moment, the court system is considered to be something around entirely separate from other forms of dispute resolution.

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At the moment, very few disputes are reaching private sector providers. Lots of disputes can be instant online already, but the services are very disjointed. You might have a case with the Revenue & Customs, but if that doesn’t resolve satisfactorily you can’t start again with, say, a mediator. If the mediation failed, you have to start a new case with the Court Service.

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