
Kluwer Mediation Blog

Mediation Pilot Projects in Ireland

Sabine Walsh (Sabine Walsh Mediation) · Wednesday, September 5th, 2012

I recently spent a very pleasant evening chatting to a German colleague over beer and toasted marshmallows. To my surprise, she prefaced much she had to say with the comment, “but sure mediation is much more established and better developed in Ireland than here (Germany)”. I was a bit puzzled by this perception, because as someone working in mediation and constantly advocating better integration of mediation into dispute resolution systems, I tend to focus primarily on what we are not yet doing and what other jurisdictions are doing better. So, for the purposes of this blog I have resolved to change my focus somewhat, and have a look at a series of mediation initiatives the Irish state is working on and that might just form a basis for my German colleague’s opinion.

The first of these was commenced in March 2011 and is an initiative run jointly by the Courts Service, the Legal Aid Board and the Family Mediation Service and is based in Dolphin House, Dublin where the Dublin District Family Court is based. The initiative’s aim is to make mediation available in all cases relating to children, that is, guardianship, custody and access cases (which make up approximately 40% of all cases in this office in the past 10 years). All parties making such applications are offered a mediation information session. If they agree, the service contacts the other party and offers the same to them. If both parties agree they jointly attend a mediation information session (all services are co-located in the same building) and then they can, if they wish, proceed to mediation. There is no charge for this service.

Preliminary figures for the first year of the project were published in the Irish Times in June of this year (<http://www.irishtimes.com/newspaper/ireland/2012/0614/1224317878608.html>). These show that there were 1,623 applications to the District Court in relation to children last year. Between March 2011 and March 2012 more than 800 people attended mediation information sessions, of whom 399 went on to mediate. By the end of March, 293 of these had resulted in mediated agreements and many more were still in progress. As more than 90% of these applicants would have been eligible for legal aid, it was estimated that the net savings made by the State by these cases being resolved through mediation was over €102,000, after the costs of providing mediators etc. were deducted. The project continues and further progress reports are planned, as is expansion to other District Court areas in due course.

Following the success of this scheme, a similar one is due to commence on 1st October 2012 for a period of six months in Dublin Circuit Family Court. This will be administered by the Courts Service and will initially be based in Phoenix House in Dublin. A roster of mediators will be set up who will provide mediation information sessions on a voluntary basis for parties seeking to file

Circuit Court Family proceedings. The information session will not carry a charge, however if parties subsequently wish to engage a mediator charges will have to be agreed with that individual. Mediators applying to go on the roster have to meet certain requirements in terms of training and registration with one of the mediation organisations. A number of other Circuit Court offices around the country are considering similar initiatives, though they may well wait to see the results of the Dublin initiative before they commence.

Finally, moving away from the area of family mediation, the Dublin District and Circuit Civil Court Office have recently commenced a mediation initiative in association with three mediation organisations, Ballymun Mediation, Mediation Northside and the South Dublin Mediation Service. This project aims to encourage lay litigants, in particular, to consider using mediation in different civil disputes relating mainly to community issues such as:

Boundary disputes, private prosecutions for breach of the peace, complaints about noise or nuisance pets and disputes between adult family members on questions of property. Staff in the relevant court offices will screen cases which fall within this ambit and give parties information about the suitability and benefits of mediation. Parties will then be directed to a suitable local volunteer mediation service. The County Registrar may also refer cases to mediation if she deems them to be suitable. As with the other projects, the relevant mediators will have to be trained and be members of the Mediator's Institute of Ireland or similar organisation.

It remains to be seen what the outcomes of these initiatives, and those that will hopefully follow, will be, but if the cost savings that have been shown by the Dolphin House Project can be replicated in other areas and jurisdictions, this will be a success story for both parties and the government. The key to success will, however, be sustaining the projects and extending them to all areas of the country so that all citizens have access to the same services. Also required will be the effective, but not excessively bureaucratic administration of such schemes by the relevant courts services, quality control of the mediators participating and the information being given, and continued feedback from participants to show whether such schemes are achieving their aims.

Still, for a small, broke country whose national pride has taken a severe beating in recent years, I think these small steps towards integrating mediation into the legal system deserve a resounding pat on the back.

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