
Kluwer Mediation Blog

A Net Zero Civil Justice System?

John Sturrock (Core Solutions Group) · Thursday, April 29th, 2021

Some time ago, in these pages, I proposed the World Mediators' Alliance on Climate Change. Out of that initiative grew the [Mediators' Green Pledge](#). Out of that we hope to see a supportive corporate pledge and a conference at the time of COP26 in November. More on that later.

This month, I'd like to float another idea and seek comments and suggestions from readers. Here is where I have got to so far, written in the context of my own country, Scotland, but, I hope, adaptable to other jurisdictions:

“CO2 concentration in the atmosphere is at record levels, higher than for tens of millions of years. According to the former Governor of the Bank of England, and now UN special envoy on climate action and finance, Mark Carney, the world is on track for a 3 degree increase in warming. However, levels must be maintained at below a 2 degree increase if we are to avoid very serious damage to the world's environment and to our individual and collective futures. The world faces tipping points such as disintegration of ice sheets, species extinction and permafrost loss which could push parts of the earth into irreversible changes. Feedback loops which will exacerbate adverse conditions are now a serious risk.

There is increasingly strong scientific and political consensus. The financial sector is beginning to understand the long-term consequences for investment and risk. As President Biden made clear recently, this is the decade when things must change and this is the year when we must start to make a real difference. Whatever we all do in response to the COVID pandemic needs also to address the implications of climate change and focus on achieving net zero carbon emissions as soon as possible. There is no time to waste. The Green Recovery needs to mean something. And to deliver.

The next Conference of the Parties on climate change, COP 26, will take place in Glasgow this November. Arguably, it is one of the most important global meetings ever. Nations now need to commit to implementing what was agreed at a previous COP in Paris. Overall, we are told that this commitment has been woefully insufficient so far.

Whoever we are and however we go about our lives, we all have a part to play in this, as Scotland's Climate Assembly recently reminded us. We have no choice. The UK Committee on Climate Change has challenged us all in Scotland to walk the talk. The Scottish Government has committed to reducing emissions by 75% by 2030. Experts say that we need to translate big picture commitments into sectoral delivery and real results on the ground, and to do so quickly.

My question is this: How can we design a civil justice system in Scotland fit for the future, not only post-Covid but addressing climate change and minimising environmental harm? How can we build a Net Zero Carbon Civil Justice System in and for Scotland? With COP26 coming up, how can we show leadership to other nations?

This raises some interesting questions:

? What does or will the Law Society of Scotland recommend to its members to achieve an environmentally sustainable approach to helping clients to resolve disputes?

? What further can members of the Scottish Bar do to reduce fossil fuel emissions?

? How can the Scottish Courts and Tribunal Service do more with its online services to make a difference?

? What encouragement might judges individually and collectively give to litigants?

? What pledges or commitments might individuals and institutions in the civil justice system give to achieve Net Zero outcomes?

? How can we, in the civil justice system, engage with, involve and gain the support of the general public in a cooperative effort to produce tangible results?

? How can we frame creatively the discussions and decisions today and from now on to reflect the urgency of the situation?

? What might we learn from other civil justice systems in their response to climate change?

? In practice, what might all of this mean for patterns of consumption, use of renewables, travel and forms of process?

The Master of the Rolls, Sir Geoffrey Voss, recently set out radical proposals for an effective and efficient civil justice system in England and Wales, including online integration of alternatives such as mediation, leading to, he argues, significant economic benefits for the country. The objective for the Scottish civil justice system must surely be to move from traditional resource-heavy processes to those which achieve the twin benefits of efficient dispute resolution and a lower carbon footprint.

‘This is not for us...’ won’t do. We’re all in this together. Those of us in mainstream professional activities in Scotland, including the civil justice system, must act now.”

What do you think?

So, that’s the general idea. What do readers think? Are there other angles? Better ways of expressing things? How could this work in your country? We know that mediation can be at the heart of a more sustainable civil justice system everywhere. What more can mediators say without appearing simply to promote mediation and facing the ‘They would say that, wouldn’t they?’ response?


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This entry was posted on Thursday, April 29th, 2021 at 3:17 pm and is filed under [Future of mediation](#), [Lawyers](#), [Leaders](#), [Mediation Practice](#), [Policy](#), [Scotland](#), [Uncategorized](#)

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