Recent Developments in Alternative Dispute Resolution

Update No. 8

March 2003
# ADR Update No. 8

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This *ADR Update* is intended to inform the advice sector of developments and initiatives in alternative dispute resolution. ASA wants to encourage dialogue between advisers and ADR providers so that the growing field of ADR develops in a way that ensures access to justice and informed choice. If you know of others who might like to receive a copy of *ADR Update*, either by post or by email, or if you would like more information about any of these topics, please contact Val Reid, ASA’s policy and development officer for ADR. The *ADR Update* can also be downloaded from the ASA website:

- val.reid@asauk.org.uk
- [www.asauk.org.uk](http://www.asauk.org.uk)

ASA, 12th Floor, New London Bridge House, 25 London Bridge Street, London SE1 9ST

ASA has also published *Advising on ADR: The essential guide to appropriate dispute resolution* (June 2000). The guide can be ordered for £20 from York Publishing Services, 64 Hallfield Road, Layerthorpe, York YO31 7ZQ, Fax: 01904 430868.
News and information

Who should pay care home fees for the elderly?

The new Health Service Ombudsman, Ann Abraham, published a special report on NHS funding for long term care in February 2003. The report follows a cluster of complaints to the Ombudsman about the ways in which health authorities applied their eligibility criteria for funding nursing care needs for older and disabled people. A number of the cases referred to the Ombudsman followed the refusal of applications for an Independent Review Panel, on the grounds that at least one of the key issues being complained about was the health authorities’ criteria, an issue which was outside the jurisdiction of an IR.

The Ombudsman however has accepted these cases for investigation, and as well as making specific recommendations for compensation and apology in the individual cases concerned, has recognised that this is a matter of wide public interest, and has therefore published a report and recommendations based on her findings in these four test cases. Her key conclusions are:

- The Department of Health's guidance on this issue is not clear, and doesn’t facilitate a “fair and transparent system of eligibility” throughout the country
- What guidance there is has been misinterpreted and misapplied by some health authorities when creating their own local criteria
- Mistakes have also been made in applying the local criteria to individual cases
- The effect has been to cause injustices and hardship to some people

She recommends that Health Authorities should:

- Review their criteria for funding decisions, and the way those criteria are applied
- Remedy any financial injustices which are identified

She also recommends that the NHS should:

- Assess whether local health care trusts’ criteria are in line with NHS guidelines, and be more pro-active in future in checking that local criteria do follow national guidelines
- Review the national guidance to make it clearer

Since the report was published, the Ombudsman’s office has received over 1200 written and over 2000 phone complaints about similar cases, covering every Strategic Health Authority in the country. The current recommendation is that those with concerns should make their complaint directly to the Strategic Health Authority concerned, and if no satisfactory response is received within three months, go back to the Ombudsman to request further investigation. It is worth noting that although the four test cases refer to events in England, the issues and the Ombudsman’s recommendations apply to Wales and Scotland as well.

The Ombudsman’s help line is 0845 015 4033. The Ombudsman cannot give individual advice to agencies or clients, but will provide guidelines and a checklist.

The full Ombudsman’s report is on the website:

www.ombudsman.org.uk/hsc/document/care03/care03_rep.htm

Age Concern provides factsheets on this issue, for example:

www.ace.org.uk/ageconcern/media/Factsheet_20.pdf
You must attempt to settle disputes before going to court

The latest update of the Civil Procedure Rules comes into force on April 1st 2003. One of the key changes is to the procedure which should be followed before taking a case to court.

Parties to a potential dispute should follow a “reasonable procedure”, suitable to their particular circumstances, which is intended to avoid litigation. The procedure should not be regarded as a prelude to inevitable litigation. It should normally include:

- the claimant writing to give details of the claim
- the defendant acknowledging the claim letter promptly
- the defendant giving within a reasonable time a detailed written response
- the parties conducting genuine and reasonable negotiations with a view to settling the claim economically and without court proceedings

(Paragraph 4.2 of the protocols practice direction)

The protocols practice direction states clearly that the specific protocols and the principles of the general protocol indicate “the normal, reasonable way of dealing with disputes”, and the court will decide what sanctions to apply if the protocol has not been complied with (PPD 3.3).

You may recall that last year the Lord Chancellor’s Department decided not to go ahead with introducing a general pre-action protocol, as there was no consensus amongst those responding to the consultation about how best to go ahead. However the department did promise that the principles of the pre-action protocol would be incorporated into the next revision of the Civil Procedure Rules (CPR) and that promise has been kept.

This means that advisers discussing ways of resolving disputes with clients will need to let them know at an early stage that these procedures must be followed, in order to avoid potential costs sanctions imposed by courts at a later stage. It also means that the client and their adviser should consider whether there are appropriate ways of resolving the dispute other than going to court, such as complaints procedures, mediation, or making a complaint to an ombudsman.

More details can be found on the LCD website:
www.lcd.gov.uk/civil/procrules_fin/contents/practice_directions/pd_protocol.htm

Two useful websites

The Centre for Effective Dispute Resolution (CEDR) has a new section on its website with updates on the law relating to ADR. This section, called “EDR Law”, keeps you in touch with changes to the civil procedure rules, and with summaries of recent cases involving ADR practice or principles.

There is also a website called Lawzone which is an online legal community, providing daily news, information and resources. You can customise a weekly newswire with brief summaries of news in areas of law which are of interest to you, including ADR, and search the website for items of interest. Registration is free on:
www.lawzone.co.uk
User-friendly website for community mediation throughout the UK

Mediation UK, the national umbrella group for not-for-profit community mediation services, has developed and launched a new website. This is an accessible and useful site for advisers wanting to give information to clients about types of community mediation, all of which are explained on the site. All Mediation UK services offer neighbour mediation, and many also offer mediation on issues including:

- Victim/offender
- Restorative justice
- Schools
- Special educational needs

Other useful features of the new website include:

- Case studies for the most common types of mediation, which are useful in helping clients to think about whether or not mediation could be helpful in their circumstances
- A search facility to locate local community mediation services by name or region
- An opportunity to take out a free email subscription for up-to-date information on Mediation Quality Mark developments, events, publications or jobs
- A link to the Disability Conciliation Service, which is run by Mediation UK.

The Mediation UK website can be found on:

www.mediationuk.org.uk

NB This should not be confused with the website www.mediationuk.com which is the website of an organisation called Nationwide Mediation Ltd, which was the subject of a critical BBC watchdog report on February 4th 2003. See page 7 for further information.

Community and family mediation conference

There is growing political and social use of mediation to attempt to resolve conflicts at many different levels, from separating families to warring neighbours to environmental debates. Mediation UK and the UK College of Family Mediators are holding a conference in Sheffield which will look at the range of contexts in which mediation now operates. The conference takes place on 28th – 29th April 2003; more information on the Mediation UK website:

www.mediationuk.org.uk/events/

European Union Green Paper on ADR

Following last year’s Green Paper on ADR, a summary of responses received by the EU has been published on its website. More than 160 responses were received, with a wide diversity of views on the subject being expressed. In general there was broad agreement that ADR is in itself a useful process, and that a debate about its role throughout the European Community is to be welcomed. A majority also agreed that one of the main functions of the EU should be to encourage (and resource) initiatives to raise awareness of ADR amongst those involved in legal proceedings and legal professionals.

More details on:

Mediation in group actions

At the end of last year a group representing Kenyan tribespeople maimed or killed by British landmines in Kenya agreed to take part in mediation with the Ministry of Defence to try to negotiate a settlement. The mediation was successful, and compensation totalling £4.5 million was agreed without having to go to court.

A group representing the parents of children whose organs were retained without permission by Alder Hey Hospital also agreed to mediation with the NHS to resolve the dispute, and mediation was successful in November last year. The mediated settlement included not only financial compensation, but also an apology to the parents, a memorial to the children at the hospital and a donation by the university to a charity of the parents’ choice.

It is interesting that mediation is increasingly seen as a way to resolve such high-profile disputes involving large numbers of people and significant sums in compensation. One of the advantages of mediation in such cases, as well as the reduction in cost to both sides, is the fact that the potential range of solutions is much wider than those available to a court, and can include actions, apologies and outcomes other than merely financial payouts. In the past it has often been thought that mediated financial compensation payments tend to be significantly lower than those awarded by a court, but in the Alder Hey case a court considered the financial element of the agreement, and pronounced it appropriate. It may be that a combination of mediated negotiation, and minimal court involvement to clarify law or rights, or to comment on compensation levels, may be the way forward for some types of dispute resolution.

For further information on the two cases mentioned, try the following links:
Kenyan landmines: www.landmineaction.org/news139.asp
Alder Hey dispute: http://news.bbc.co.uk/1/hi/england/2410565.stm

Mediation provision in the advice sector

Last year ASA conducted a survey into mediation provision in the advice sector. The key findings were:

1. Only 4 advice agencies in England and 1 in Scotland currently run a mediation service.

2. Services providing mediation are very vulnerable to funding fluctuations; more than a third of the mediation services identified in ASA’s 1999 survey were no longer in operation in 2002 due to funding shortfalls, or to the end of 3 year funding projects.

3. A number of advice agencies offered a service which some labelled as “mediation”. However, this service characteristically involved setting up a face-to-face meeting between the agency’s clients and the party or department with which they are in dispute, and assisting both in negotiating a mutually agreed outcome. Whilst this service is often called “mediation”, it does not conform to the commonly accepted definitions of the mediation process, especially with regard to the neutrality of the third party, and is probably best described as face-to-face negotiation in order to avoid confusion and misunderstanding.

ASA recommends . . .

. . . that creative and flexible ways of resolving disputes without going to court are to be encouraged. However, the advice sector needs to have

- a clear understanding of the nature of mediation and
- a clear understanding of the distinction between advice, negotiation (whether by phone, letter or face-to-face), representation and mediation.

A copy of the briefing and ASA guidelines is available in the “What’s new in Alternative Dispute Resolution” section of the ASA website on www.asauk.org.uk
How can advisers assess the quality of mediation providers?

The BBC Watchdog programme on February 4th this year highlighted concerns expressed by a group of mediators who had paid £5000 to train as mediators, and a further £10,000 for a licence to practice as part of “Nationwide Mediation Ltd”. The programme questioned the quality of the training, and the value of the endorsement of this organisation. It is also worth noting that the website address for Nationwide Mediation Ltd is very similar to that of Mediation UK, the umbrella group for not-for-profit community mediation services throughout the UK.

Although this affects only a few mediators directly, it highlights an ongoing problem for advisers wishing to refer clients to any ADR providers to explore ways of resolving disputes without going to court. There is currently no single standard for mediation services or for mediators, by which the quality of the service or of the mediation can be evaluated. Some of the main tools for checking the quality of mediation providers are summarised below.

- The Legal Services Commission published their Mediation Quality Mark (MQM) in December 2002, but this covers only family mediation and community mediation services. So far, all not-for-profit and private sector providers who have a contract with the LSC to provide family mediation are quality marked, and applications for the quality mark for community mediation services began in January 2003. Family mediators providing mediation under LSC contracts also undergo a personal accreditation process.

- Mediation UK, the umbrella group for not-for-profit community mediation services, provided a programme of accreditation for services, but it was suspended when work began on the LSC MQM, and only 10% of services are accredited. Many Mediation UK services will apply for the LSC MQM, but many have identified lack of resources as a problem in meeting the quality mark requirements. Mediation UK also provides accreditation for individual mediators, and there is a target of 75% of mediators in quality marked services being accredited within 3 years.

- Major national commercial mediation providers such as CEDR and the ADR group have their own training and practice standards for mediators.

The LSC Quality Mark for Mediation can be found on:  
www.legalservices.gov.uk/qmark/qm_standard_for_mediation_nov02.pdf

The website for Mediation UK is:  
www.mediationuk.org.uk

CEDR have published a press release responding to the BBC Watchdog programme:  

ADR and Government Departments – do they practice what they preach?

Government departments are slowly increasing their use of ADR in resolving disputes. Back in March 2001 the Lord Chancellor issued a pledge that government departments would not take disputes to court without considering mediation first, and would always attempt mediation if the other party were willing to do so. A question was asked about this by Douglas Hurd in the House of Lords on Thursday February 13th this year, and the reply from Baroness Scotland on behalf of the LCD indicated that one year on from the LCD pledge, alternative dispute resolution methods had been used or attempted in 49 cases. So far in this financial year (April 2002 to date) that figure has increased significantly to 255.
However, it is interesting to note that the legal firm Nabarro Nathanson, in conjunction with the ADR Group (another national mediation provider), conducted a survey at the end of last year into the use of ADR by local government departments. They interviewed 50 respondents from 21 councils in England and Wales, and found that 60% of the people spoken to had not referred any legal disputes to mediation in the last 12 months, and only 8% had referred more than 5 cases to mediation, despite the fact that 62% of respondents had mediation clauses in all their contracts. This suggests that while there is a national government policy to promote the use of ADR to resolve disputes with local or national government departments, it is still far from being an integral part of the way these departments think about dealing with such issues.

The full details of the exchange in the House of Lords on Thursday February 13th 2003 can be found in Hansard on:
www.parliament.the-stationery-office.co.uk/pa/ld199900/ldhansrd/pdvn/lds03/text/30213-03.htm#30213-03_star0

The full report of the survey by Nabarro Nathanson on Local Government and ADR can be found on:

Ombudsman report on informed consent in medical treatment

On March 27th the Health Service Ombudsman, Ann Abraham, published the results of 63 investigations completed between August and November last year. Two key issues emerged:

- The recurring problem of lack of communication between medical staff, patients and carers
- Failure to obtain informed consent before medical procedures

The option to refer a complaint to the Health Service Ombudsman is always worth considering in cases where clients with mental health problems have not given informed consent to a procedure, or where a client has a genuine complaint about lack of communication or procedures being performed without consent, but does not have grounds for claiming significant damages.

Anonymised details of the cases and the Ombudsman’s comments can be found on the Ombudsman’s website:
www.ombudsman.org.uk
New ADR schemes

New mediation scheme at Exeter County Court

Exeter County Court has set up a new court-based mediation scheme for cases concerning sums over £5000. All parties are given information about the scheme, and if both agree they sign an agreement to mediate, and the judge responsible for the mediation service will suspend the action while mediation takes place. Most mediations take place during a single three hour session at the court’s mediation suite, a suite of three rooms the mediator can meet with each party separately and also bring both sides together for discussion and negotiation.

If a solution to the dispute is reached, and the parties agree, the judge will make a formal order by consent. If not, the action will be reinstated. An “unreasonable refusal to mediate” will be reported to the trial judge, who may take it into account when considering costs, as provided for in the Civil Procedure Rules.

The court provides a checklist for the parties to use when considering whether or not to use mediation.

If you answer “yes” to any of the statements below, your case may be suitable for mediation:

- I would prefer to reach agreement rather than litigate
- I may want to continue in business in the future with the other party
- Confidentiality is important
- The other party is my neighbour
- I am concerned about costs rising
- Timing – I want an end to this case
- I would prefer an informal process

More details about the scheme on the Court Service website on:

Mediation for voluntary sector organisation disputes

Did you know that the National Council for Voluntary Organisations (NCVO) and CEDR provide a mediation service for disputes within or between voluntary organisations? The NCVO website points out that “voluntary organisations are strongly value-based, and may experience intense conflicts about directions and policies”; the NCVO/CEDR scheme can provide a mediator to organise a formal mediation process, or a neutral facilitator to chair a discussion or debate on contentious issues. Costs are subsidised by CEDR, and depend on the size of the organisation, but start at around £250.

Find out more on the NCVO website:
Launch of the Compact Mediation Scheme

The Compact (on relations between Government and the voluntary and community sector in England) was published in 1998. It was intended to provide a framework of shared principles for partnership working, and is backed up by codes of practice on a number of issues including funding and volunteering.

On March 19th the Government launched a mediation scheme to help resolve disputes arising out of the compact or its associated codes of practice. It is run independently by CEDR and can be accessed either by government departments or by voluntary or community organisations. The cost is negotiable, but the scheme literature states that cost will not disbar smaller organisations from participating. More information on:

www.cedr-solve.com/compact/

On-line dispute resolution service

A new on-line dispute resolution service has been set up with support from the European Union. It is based in Ireland, but is available to consumers in any EU country who have a dispute about an internet transaction. ECODIR (electronic consumer dispute resolution) provides a three-stage process of dispute resolution:

- Negotiation between the two parties in dispute within a fixed time limit
- Mediation using an independent mediator who will help the parties interact and identify the key elements of the dispute, and to explore possible resolutions
- Recommendation by the mediator if no solution is found within 15 days

Participation is voluntary, and mediation is carried out via email and the internet, so is easily accessible from any location. Until the end of June the service is free. More details on:

www.ecodir.org

An alternative to ADR!

A £70,000 dispute between two New Zealand companies was settled in a best-of-three arm-wrestling match. The chief executives of telecommunications companies TeamTalk and MCS Digital squared off after they were unable to reach an agreement on access to a mobile radio network. The dispute was heading for the courts before the two firms agreed to the unusual settlement.

Defeated TeamTalk chief executive David Ware told ABC News Online: "Sure, losing hurts but not nearly as much as paying lawyers' bills."

This information snippet came from an email newsletter linked to the website “Law Zone” which provides up to date information about legal issues. More on:

www.lawzone.co.uk
Ombudsman news

National Consumer Council to investigate Ombudsmen

To start its new programme of work on Access to Redress, the NCC is planning to investigate how well Ombudsman schemes are serving consumers. The NCC is currently developing its plans for the project, which will include a survey of advisers and advice agencies. A questionnaire, to be mailed out in the summer, will ask how often advisers refer consumers to Ombudsmen, how satisfied advisers are with Ombudsmen practices and seek suggestions for improvement. Later in the project the NCC will talk to consumers who have recent experience of using an Ombudsman. Steve Brooker, who is leading the project at the NCC, would welcome enquiries on 020 7881 3046 or e-mail: s.brooker@ncc.org.uk

What would make it easier to use the Local Government Ombudsman?

The LGO held a workshop for voluntary and advice agencies early in March, to talk about the things that make it difficult to refer cases to the ombudsman service. Some of the key issues were identified as:

- The need for clarity about the jurisdiction of the Ombudsman
- The need for guidance on choosing the most appropriate remedy – Ombudsman, litigation or Judicial Review
- The need for greater clarity in the publicity materials and complaints forms
- The need for information specifically written for advisers as well as members of the public
- The need to reduce time taken to deal with referrals and to complete investigations

The LGO is currently engaged in a project to develop understanding of the Ombudsman's role amongst voluntary and advice agencies, and is in the process of drafting new, more accessible leaflets and complaint forms. The LGO website is on: www.lgo.org.uk/

Financial Ombudsman news

The Financial Ombudsman publishes an update on issues and cases every month, which is available on-line at: www.financial-ombudsman.org.uk/news/index.html

The March edition contains details of changes to the rules about the timescale for making a complaint to the Financial Ombudsman Service. Until now, complaints should be made within six years of the event complaint of, or within 3 years from the date when the party became aware of the problem. This has now been made more flexible, in that parties who referred their complaint to the firm within the time limits, and have evidence that the firm received their complaint, can still complain to the Ombudsman outside those time limits. The Ombudsman can also consider any complaint at any time, even if outside the limits, if the firm does not object, or if the Ombudsman believes it to be justified by exceptional circumstances. It also contains anonymised banking and investment cases, and guidelines on legal expenses insurance policies.

It is also possible to email questions on any related topic to the ombudsman at: ask-ombudsman-news@financial-ombudsman.org.uk
Project reports

A number of new mediation projects have been launched over the last year, and I have included reports written by three of them. The three reports written by the organisations concerned aim to promote the work they are doing, and evaluate the results of the projects to date.

1. The Lawworks mediation project was set up by the solicitors and bar pro-bono groups to provide mediation in cases where at least one party was not eligible for legal aid, but unable to afford commercial mediation.

2. The Leicestershire consumer mediation project was funded by the first round of the Partnership Innovation Budget (PIB) to provide advice, information and mediation in consumer disputes in Leicestershire.

3. Sandwell Community Mediation Service also received PIB funding to set up a scheme offering mediation to county court applicants in the Midlands.

The fourth report featured here is from the FAInS pilot project. This is not a mediation project as such, but was set up by the LSC to pilot the provision of a single point of entry for separating or divorcing couples. In the pre-pilot stage, family law solicitors have provided legal advice, and also referral where appropriate to a range of linked services including family mediation.

The LawWorks project report

We believe that mediation is the best way to resolve disputes of all kinds, and that it should be available to everyone, including those who cannot afford the cost. We are therefore pleased to report on the success of the first year of our scheme, which has started to meet this need. LawWorks Mediation Scheme is one of the projects launched by LawWorks, which is a partnership initiative by the Law Centres Federation and the Solicitors Pro Bono Group, and is supported by the Bar Pro Bono Unit.

LawWorks Mediation Scheme offers independent mediators and mediation advisers free of charge in cases where at least one of the parties cannot afford to pay for the services of a mediator and an adviser. Often these parties are clients of Citizens Advice Bureaux and Law Centres. Our mediators are all lawyers trained by leading mediation trainers. We believe that mediation can often help with the settlement of all kinds of disputes, and, in particular: housing; consumer; employment; accidents; and debt.

Achievements in the first year

The scheme has been running initially as a pilot for London and the West Midlands. We have recruited a panel of 30 mediators from around the country. We have provided 12 training sessions to advice workers at Citizens Advice Bureaux, Law Centres and Community Legal Service Partnerships. There has been a steady and increasing stream of enquiries.

We have now received 33 enquiries. In 15 cases, the enquiry has gone beyond the first exchange, and we have appointed mediators in six cases. There have been agreements in four and, although settlement was not achieved in the other two (in one, the parties are still talking), the parties nevertheless appreciated the skills of the mediator. In all cases, parties and mediators have been generously complimentary about the service that LWMS has provided.
Referrals have been from the following sources:

<table>
<thead>
<tr>
<th>Source</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bar Pro Bono Unit</td>
<td>4</td>
</tr>
<tr>
<td>Centre for Effective Dispute Resolution</td>
<td>4</td>
</tr>
<tr>
<td>Attendees at training sessions</td>
<td>4</td>
</tr>
<tr>
<td>Help line</td>
<td>17</td>
</tr>
<tr>
<td>Others (including one MP)</td>
<td>4</td>
</tr>
</tbody>
</table>

The sectors covered by enquiries have included employment, partnership, medical, property, consumer, personal injury and even defamation. We have had some very positive feedback. What people tell us shows not only how much the service is appreciated by its users, but it also shows that, while mediation is so often the best option, very few people are aware of its existence.

*John Kendall*

**Leicestershire consumer mediation project report**

The Alternative Dispute Resolution scheme run by Leicestershire County Council has been busy encouraging consumers to make use of ADR as an alternative to court action. The scheme was funded by the Partnership Innovation Budget following a bid submitted by Leicestershire County Council in conjunction with the Leicestershire Community Legal Service Partnership. The scheme provides Leicestershire County Council’s Trading Standards Service with an ADR Officer who acts as a mediator for consumer disputes as well as providing education resources on subjects raised by the casework. The scheme is of more use to people who are less able to negotiate for themselves perhaps due to poor basic skills, language barriers etc. Recent promotion of the scheme has been targeted at young people with a view to educating consumers as early as possible.

Leicestershire County Council has strong links with the seven CABx across the county and these relationships have proved invaluable to the ADR Officer in promoting the existence of the scheme. Local CABx have reacted positively to the new scheme, and refer cases to the ADR Officer when consumers have reached a stalemate with traders. It is hoped the scheme is providing a useful option for CABx who do not have the resources to offer casework on consumer law issues.

To date much time has been spent setting up and promoting the scheme, as well as identifying suitable cases. Of the 39 matters dealt with so far only 6 have progressed to full mediation sessions. Of these 3 have been successfully resolved, 1 has yet to be decided and 2 have not been successful. The remainder of the cases have either settled without the need for full mediation, failed due to the trader refusing to become involved, been referred for further advice or are being progressed without formal mediation.

To encourage more traders to use ADR, the scheme is focusing its promotion on highlighting how ADR can be of use to the business sector. Feedback received from those parties who have used the ADR scheme shows there was no pre-existing awareness of ADR but that parties would now consider using ADR for the resolution of further disputes.

If you would like more information on the scheme you can contact the ADR Officer via the Trading Standards Duty Officer line on (0116) 2657979.

*Jessica Sumner*
Sandwell Mediation Service ADR project report

Sandwell Mediation Services ADR project commenced in April 2002. Initially the project had a slow start, but we are delighted to say it is growing each and every day, which is reinforced by the positive feedback, the increase in referrals and the type of referrals being received.

Up to date 40 referrals for ADR have been made by the local Citizens Advice Bureaux, Sandwell Trading Standards, Birmingham Civil Justice Centre, West Midlands Police, Sandwell Council, National Probation Service West Midlands and local councillors, as well as from the public through our literature and website.

Out of these 40 referrals 4 were enquiries and did not enter the mediation process. Therefore 36 referrals entered the mediation process whereby 14 referrals have settled, 2 have not settled, 11 referrals are pending, and in 9 of the referrals one of the parties refused to participate in the mediation process. As you are no doubt aware mediation is a voluntary process whereby both parties need to be willing to participate in order for mediation to commence.

Although 40 referrals may not sound like a great amount, lack of awareness and the fact that this project is still in its early days should be considered, alongside the 56% success rate which can and will be much higher, when the awareness of mediation through ADR increases.

Currently our organisation is liaising with the Local Government Ombudsman for Sandwell, as well as the Civil Courts sitting at Birmingham, Stourbridge, Wolverhampton, Coventry, Dudley, Tamworth, and Stafford, to create and develop a referral process to receive referrals when and appropriate to do so.

In line with the above and the message being voiced by central Government that Ombudsman schemes must consider ADR as an informal resolution before pursuing a formal resolution to rectify any complaints, and the new legislation, shortly to become an Act of Parliament, relating to trees and Boundaries, it is hoped more referrals will be made, with a view to being mediated and resolved to the satisfaction of all the parties concerned.
Sandwell Mediation Service is also able to provide consultancy in the setting up of mediation services and also offers mediation training.

For details about any of these services please contact: Sandwell Mediation Service, 79 Birmingham Road, West Bromwich, West Midlands, B70 6PX, 
Tel: 0121 525 4659  Fax: 0121 525 4672.  
Email: sms@sandmediation.fsnet.co.uk  
Web: www.sandwellmediation.co.uk

Harvinder Bhurji

FAInS project report

The Family Advice & Information Service (FAInS) is about to enter the first phase of full pilot operation in England and Wales. The project, which was introduced by the Lord Chancellor in March 2001, has already successfully completed a pre-pilot phase.

The project aims to help couples dissolve broken relationships in ways that minimise the distress both to the couple and to any children involved. It aims to promote ongoing relationships and co-operative parenting. Central to the project is the provision of tailored advice and information that is appropriate to the client and their situation, and helps them to access services that may assist in resolving disputes, or may help those who are trying to save their relationship. The project will also look at specialist services that are available specifically for children who are caught up in family breakdown.

Currently the Family Advice & Information Service is supplied by family solicitors. To date this been restricted to the five pre-pilot areas. These solicitors have undertaken a programme of Professional Development to prepare them for this role.

In the future other service models may be piloted, for example, supplying a FAI�S service via mediation agencies.

The FAI�S project is both experimental and developmental. We are listening to the views of the clients who have agreed to take part in the research, as well as getting the input of the family solicitors involved and the agencies to whom they refer. We recognise that the FAI�S project must be a partnership between participants and the Commission if it is to have value as a means of discovering how best to build the ‘seamless’ services families require.

The project is running in England and Wales. The pre pilot areas of Cardiff, Exeter and Nottingham will be joined by a number of new areas to be announced shortly.

You can get more information at www.legalservices.gov.uk or by contacting fiona.dagenais@legalservices.gov.uk

Simone Hugo
Glossary of acronyms and contact details

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Description</th>
<th>Website</th>
</tr>
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<tbody>
<tr>
<td>ACE</td>
<td>Age Concern England</td>
<td><a href="http://www.ace.org.uk">www.ace.org.uk</a></td>
</tr>
<tr>
<td>ASA</td>
<td>Advice Services Alliance – umbrella group for advice networks</td>
<td><a href="http://www.asauk.org.uk">www.asauk.org.uk</a></td>
</tr>
<tr>
<td>BIOA</td>
<td>British and Irish Ombudsmen Association</td>
<td><a href="http://www.bioa.org.uk">www.bioa.org.uk</a></td>
</tr>
<tr>
<td>CEDR</td>
<td>Centre for Effective Dispute Resolution</td>
<td><a href="http://www.cedr.co.uk">www.cedr.co.uk</a></td>
</tr>
<tr>
<td>ECODIR</td>
<td>Electronic consumer dispute resolution</td>
<td><a href="http://www.ecodir.org">www.ecodir.org</a></td>
</tr>
<tr>
<td>LCD</td>
<td>Lord Chancellor’s Department</td>
<td><a href="http://www.lcd.gov.uk">www.lcd.gov.uk</a></td>
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<tr>
<td>LGO</td>
<td>Local Government Ombudsman</td>
<td><a href="http://www.lgo.org.uk">www.lgo.org.uk</a></td>
</tr>
<tr>
<td>LSC</td>
<td>Legal Services Commission</td>
<td><a href="http://www.legalservices.gov.uk">www.legalservices.gov.uk</a></td>
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<td>Mediation UK</td>
<td>Umbrella group for community mediation services</td>
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<td>NCC</td>
<td>National Consumer Council</td>
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<td>NCVO</td>
<td>National Council for Voluntary Organisations</td>
<td><a href="http://www.askncvo.org.uk">www.askncvo.org.uk</a></td>
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