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## Lawyers may joke about A Drop in Revenue but those who use it love ADR

By PAUL RANDOLPH

Is the Government's mediation awareness campaign working?

IS IT possible that there are people out there who are unaware of mediation? Lawyers, possibly not; but what about members of the public?

Lawyers will tell you that alternative dispute resolution (ADR), apart from being an acronym for "A Drop in Revenue", is an alternative to court trial. Members of the public will probably say it is an alternative to instructing lawyers. So why is the Department for Constitutional Affairs (DCA) promoting a process that is seen as a part of the litigation industry?

The publicity is a key part of the DCA's "proportionate dispute resolution strategy" — its Public Service Agreement target with the Treasury is to reduce by 5 per cent the proportion of disputed claims that reach the courts and to increase by 2 per cent the number of small claims cases heard within target time. The DCA's vision is said to be "a radical departure from the traditional approach to civil justice, which focused first on courts, judges and court procedure, and second on legal aid to pay mainly for litigation lawyers". Instead, the DCA proposes to develop a range of dispute resolution services with "ready access to early assistance so that potential disputes can be resolved before they escalate into the expense and formality of litigation".

Interest in mediation has grown steadily over the past decade. Some of the larger City firms seem increasingly content to mediate their commercial cases. Yet there remains a curious hesitation on the part of the profession generally, and particularly among the regional and high street firms, to embrace mediation fully as a constructive adjunct to the services that they provide. The reluctance may not come just from the lawyers. The businessman or woman who may be a member of the chamber of commerce, Institute of Directors and Federation of Small Businesses needs also to be familiar with the concept, and it has to be an acceptable alternative, in terms of cost and timing.

The legal profession and the public need to some extent to be re-educated. Lawyers are a service industry, endeavouring to provide clients with a service that best suits their needs. It is understandable that solicitors should interpret their clients' needs as requiring a rottweiler to fight the cause, rather than a poodle to

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concede in collaborative compromise. But in reality, the client's true needs are met through the provision of a swift, inexpensive and effective resolution to the dispute — as can be provided by mediation. These needs are not met if clients approach the profession only to endure a prolonged period of stressful litigation, during which their businesses collapse, their marriages break down and their health suffers. Ask any member of the public who has submitted to litigation whether they would be prepared to repeat the experience, their answer will invariably be an emphatic “no”. Those who have experienced mediation, on the other hand, will often recommend it to others, thereby advancing the reputation, not only of the process, but also of the lawyers who led them in that direction. Members of the Bar need similarly to learn to greet mediation as an *additional* source of revenue. Representing clients at mediation is increasingly recognised as a special skill and one in which the ADR Committee of the Bar Council is ensuring that its members are adequately trained.

Mediation Week is an opportunity for lawyers and the public to attend at 60 county courts, to hear presentations, see mock mediations and talk to experienced mediators. They will learn about the future of mediation: in small claims cases, fast track and possibly multi-track cases, about community and consumer mediation, family mediation — and even about online dispute resolution, the mediation of the future. Last but not least, they can learn about the National Mediation Helpline, a service aimed at providing civil court users with mediation information, advice, and even mediation appointments.

So perhaps it should be called the mediation re-education campaign.

- [www.hmcourts-service.gov.uk/news/mediation\\_week/index.htm](http://www.hmcourts-service.gov.uk/news/mediation_week/index.htm)
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