



THE RT. HON LADY JUSTICE ASPLIN

THIRD MEETING OF THE INTERNATIONAL JUDICIAL DISPUTE RESOLUTION NETWORK (JDRN)

FEDERAL COURT OF MALAYSIA
28TH OCTOBER 2024

‘Enhancing the JDR process through planning, management, implementation, facilities, budgeting and technology’.

SPEAKING NOTES (8 MINUTES)

1. Thank the JDRN for their invitation and for hosting what has been an enlightening event thus far. Highlight how wonderful it is to see so many members of the Judiciary and wider international legal community gathered here. It is always so valuable to be able to hear the insights and experiences of other jurisdictions.
2. The role that both ADR and JDR has played in the civil justice system of England and Wales has grown immensely in recent years. Whilst traditionally dispute resolution has not been as entrenched within our justice system as it is in other jurisdictions, there has been a real concerted effort to improve on this. Of course, we have always had a very active and

healthy arbitration and third party commercial mediation sector outside the confines of the system.

3. Judicial Dispute Resolution and Alternative Dispute Resolution are areas of such growing importance domestically and the Judiciary of England and Wales are both excited and proud of the steps being taken to ensure that ADR and JDR practises and approaches are modernised and maximising the use of emerging technology.
4. Judicial Dispute Resolution in particular has traditionally taken on the form of early neutral evaluations and dispute resolution hearings, yet historically these were not engrained in the culture of judicial practice, save in Family cases where they are well established in relation to financial matters. However, there has been a true willingness to incorporate both ADR and JDR into how civil justice is dispensed throughout England and Wales in recent years. There have been some judicial mediations by consent in medium sized cases.
5. Only recently senior members of our Judiciary (The Lady Chief Justice, Master of the Rolls and Birss LJ) ruled that ADR can be mandated by the courts¹, bringing the use of dispute resolution as a judicial tool to the fore.

¹ [Churchill.PressSummary.1 \(judiciary.uk\)](#)

The ability to mandate alternative dispute resolution is in of itself a form of Judicial Dispute Resolution which highlights the evolving view of JDR as a valuable element of civil justice by the English and Welsh Judiciary.

6. There has been a twofold approach taken: (i) embedding the ability to mandate alternative dispute resolution into the rules and overriding objective of civil procedure and therefore providing a statutory basis for its use; and (ii) simultaneously providing significant investment in both the implementation and resourcing of alternative dispute resolution throughout the legal system. The number of mediators employed across England and Wales has almost tripled in the last year as well as Judicial training being continually updated to suit the evolving use of ADR. By supporting the dispute resolution system from above and below the processes and practise of ADR continue to be enhanced.
7. The implementation of ADR has shown it to be an immensely effective tool available to the Judiciary which protects the time and resource of the courts as well the claimants and defendants involved.
8. We have invested in the infrastructure required to support the growth of alternative dispute resolution, with a central site and dedicated team that works hand in hand with mediation and ADR specialists.

9. By providing a dedicated platform and service to the public we have facilitated another avenue for the pursuit of justice that was previously not available. The growth of the use of mediation particularly within small claims has shown that the public truly value the opportunity to settle and discuss their issues with professional representatives of the justice system as well as the opportunity to find creative solutions to their claims. It is this freedom and versatility that makes mediation and dispute resolution as a whole so beneficial to the public and the judiciary.
10. Technology of course plays a key role in the ever-evolving world of civil justice; mediators utilise a variety of platforms to ensure that there are no barriers to the use and access of ADR. This includes monitoring success rates and other metrics for analysing the effectiveness of ADR. The Judiciary have also worked closely with industry leads to explore the digitisation of all aspects of civil justice and will continue to do so.
11. That being said there is still much work to be done within the dispute resolution space, and both the Master of the Rolls and I are keen to integrate ADR as much as possible into the Digital Justice System.

12. The wider digital ecosystem being constructed in England and Wales is both inclusive of and geared towards access to justice, a huge element of which comes in the form of dispute resolution. Whether it be through linking the pre action space, providing specialist digital platforms such as the Property and Possession platform currently being built, or utilising industry partners to model efficacy of approach, we are ensuring that the approach of the Judiciary and Government is modern, efficient and effective.
13. This work has begun in earnest through pilot schemes such as the Civil Automatic Referral to Mediation (“CARM”), which introduce automatic referral to mediation for all small claims in the County Court. It is these efficacy and quality of life changes that make such a difference to both the Judiciary and public.
14. As you will hear tomorrow, High Court Judge Andrew Henshaw has also been leading on an initiative to provide a set of guidelines on how the Judicial Dispute Resolution (JDR) process may be applied and implemented while advancing access to justice in respect of small claims.
15. Much must also be made of the strengths of open communication and learning between different jurisdictions, for example in Singapore the courts are working with American legal AI start-up Harvey to develop a

generative AI program for users of the Small Claims Tribunals to give users an overview of the process, help users file their claims properly and possibly advise on the possible outcome and claim amount, thereby prompting parties to reach a settlement.

16. It is only through for a such as this, that industry leaders and judicial experts are able to cross pollinate within the field of dispute resolution and the value of this cannot be understated.
17. Through sufficient investment in technology, management, planning and implementation alternative dispute resolution can become a pillar of civil justice reform.
18. Thank you to you all for your attention and time.

SJA

28 October 2024