

Annual review 2002

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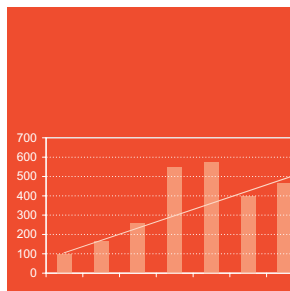
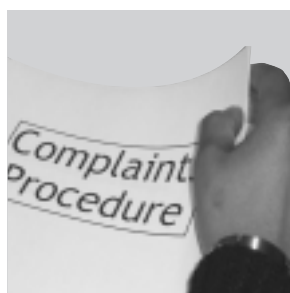


Annual

review

2002

Centre for Effective Dispute Resolution



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"It [CEDR] has over the last 12 years made a major contribution to the development of mediation services available to parties to disputes who need advice on both a choice of mediator and on appropriate procedures for mediation."

Colman J, Cable & Wireless v IBM

Foreword

Cutting the cost of conflict



Karl Mackie
Chief Executive
 Centre for Effective
 Dispute Resolution

This has been an exciting year for mediation, with a number of landmark court judgments underpinning the CPR commitment to non-litigious dispute resolution.

It has also been a very active and successful year for CEDR. We have continued to support and promote innovations of practice, thought leadership, educational and professional standards and achievement of change across business, the public sector and legal systems. We have also developed within CEDR Solve a leading, independent, non-profit facilitation and dispute resolution service, committed to quality of service and to growth of a range of mediation and related services available to clients.

Members' sponsorship continues to be a key part of CEDR's income base, and most of the activities set out in this review have only been made possible by the generous financial support of our members. We are enormously grateful for this support.

The field of effective dispute resolution is now at a turning point. Whilst basic awareness-raising and educational needs of course continue, recent judicial activism shows that, in

many areas, we have moved beyond the 'changing mindsets' phase, to one of 'exploring and ensuring best practice in mediation and related techniques'. This presents new challenges - and new opportunities - for those of us involved at the forefront of innovation.

CEDR's independence, dedication to professionalism and, above all, our commitment to the continuing development of more effective dispute resolution processes both within and outside the litigation context, all provide a firm foundation for an exciting next phase of practical achievement. We move into 2003 anticipating increased activity following the significant judgments of 2002, which have created a better climate for EDR and have materially assisted the civil justice system and the public and private sectors to cut the cost of conflict.

Further information on all the achievements highlighted in the review can be found on CEDR's website at www.cedr.co.uk

Standards of excellence

We have been working hard on improving services available to members and others, and improving standards in the marketplace.

CEDR continually up-dates and revises models of practice both to meet the changing needs of clients and to lead in best working practices:

- the eighth edition of the Model Mediation Procedure and Agreement has just been published
- we have developed a dispute resolution procedure for PFI and long-term contracts including the innovation of a 'project neutral'.

CEDR Solve has developed;

- one of the most rigorous systems internationally for integrating client feedback into the development and assessment of mediators and improved practice and training
- one of the most flexible case administration services available.

The quality and flexibility of CEDR Solve's practice and its development of the scope of the mediation process is reflected in two significant multi-party cases.

Case study

- Over 200 Kenyan tribespeople claimed against the Ministry of Defence for injuries allegedly caused by unexploded British Army ordnance.
- A two-day CEDR Solve mediation ended in settlement proposals.

73 per cent of CEDR Solve mediations in 2002 were settled on the day or shortly after.

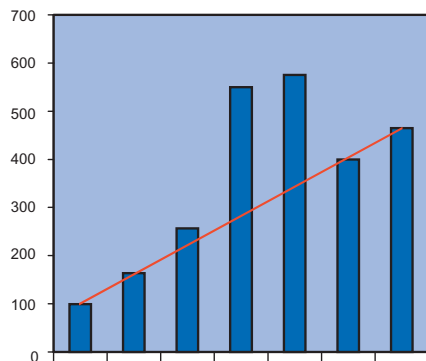
Case study

- Hundreds of families were involved in claims over the retention of children's organs following autopsy. There were two facilitation phases before the mediation in November 2002.
- CEDR Solve, the appointed mediation body undertook a process design and consultation phase with the steering groups for claimants' and defendants' representatives. These two facilitation phases were then followed by the mediation.

Innovation in EDR processes and practice

“Conscious of the need for continual innovation and of the inherent tendency for any process close to the legal system to become trapped in ritual, CEDR continues to develop specialist capabilities and best dispute practice.”

Lord Hurd, CEDR Chairman



Seven years of growth for mediation

CEDR is experimenting with different models of practice in a number of different areas:

- time-limited mediation
- the innovation of a ‘project neutral’ to assist in PFI contracts
- advice and mediation services to the Planning Inspectorate’s pilot scheme for public right of way disputes.

CEDR was appointed by **Union Railways Property** to design and operate an independent Early Neutral Evaluation (ENE) scheme, to resolve disputes arising out of the compulsory purchases of land along the new Channel Tunnel rail route.

CEDR Solve has also worked closely with practitioners to articulate the scope of ‘independent interventions’ - to illustrate the tremendous potential for mediation as a bespoke rather than standardised package.

Developing specialist capabilities and best dispute practice

The **Financial Services Authority** last year launched an innovative scheme with CEDR Solve to offer a mediation option as part of regulatory proceedings for enforcing standards of conduct in the financial services industry.

Case study:

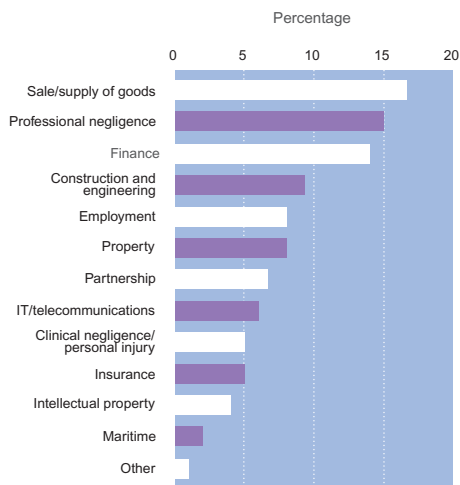
- CEDR Solve was asked to undertake an independent review of appeals by two public sector professional employees against their performance appraisal assessments.
- The independence of the third party neutral was key to reaching the final settlement of long-running grievances and the end result was welcomed and the outcomes were accepted as fair by all parties.

The **London Clearing House** is being assisted by CEDR Solve to manage their new independent investigation and independent appeals processes as required by the new FSA regulations.

We have been appointed to run the **Court of Appeal** mediation scheme due to go live at the beginning of 2003.

The **Privy Council Office** approached CEDR to explore the possibility of introducing mediation into student visitor appeals. Mediation was viewed as desirable because of its ability to consider options that satisfy the needs of both the individual and the university. This scheme has since been extended to universities using the LCD as a visitor.

Dispute sector breakdown for 2002



CEDR and **SOLACE** (Society of Local Authority Chief Executives and Senior Managers) have launched a joint initiative to promote mediation in local government.

CEDR Solve has recently successfully tendered to run the mediation service for disputes arising within **COMPACT** - a government, voluntary and community sector partnership.

On behalf of the **DTI**, CEDR led a UK delegation to Vienna and New York meetings of the UN's trade law arm, **UNCITRAL**, to debate the model uniform law for conciliation clauses.

CEDR was invited to speak at one of the sessions at the annual UK Trades Union Congress to discuss the synergy between the major unions' partnership philosophy and the concept of third party intervention.

Following a regulatory initiative that mediation should be available for disputes between major supermarkets and their suppliers, CEDR provided guidance to **The Office of Fair Trading** and liaised with major supermarkets and supplier organisations to discuss the implications of the new code.

CEDR has been working closely with the **DTI** to influence reforms giving greater weight to mediation practice and experiment in employment disputes. In November 2002 the Government approved recommendations to modernise employment dispute practice to include mediation pilots.

CEDR is participating in a joint venture with Action for Victims of Medical Accidents (**AVMA**) and the National Health Service Litigation Authority (**NHSLA**) to encourage the use of mediation in clinical negligence disputes by setting advanced standards in accreditation and training for specialised mediators and lawyers and in proposing pre-process review to ensure the best process for each case.

Leadership in training

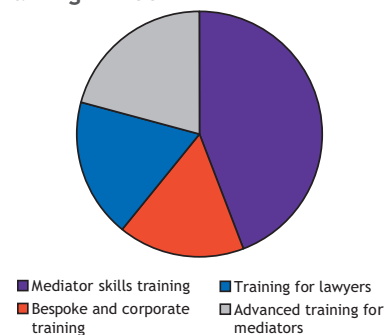
CEDR Mediator Accreditation continues to be regarded as the premier qualification for mediator training and accreditation. Our international Spring and Summer Schools attract an increasing number of overseas delegates - 12 jurisdictions were represented at the 2002 Summer School in Italy.

CEDR Solve has developed an Advanced Negotiation Skills course for senior executives from the business and public sector.

CEDR Solve's Representing Clients in Mediation courses have been comprehensively revised and now offer a series of modules enabling courses to be presented more flexibly and to be tailored to specific sector needs.

CEDR continues to deliver and refine skills-based training courses on effective dispute resolution in the public sector, to the Treasury Solicitor's department and Government Legal Services lawyers.

Training in 2002





Influencing and campaigning

CEDR continues to promote mediation awareness within the civil justice system:

- we have instigated a biennial forum with the judiciary. Topics for debate have included judicial awareness and training, clinical negligence and small claims. Our aim is to extend this to include a wider community of judges
- we were invited to give a mediation presentation to the entire Court of Appeal.

CEDR has been working closely with central and local government to support its ADR pledge:

- consulting with the government lawyers' ADR sub-committee
- organising a focus group of government users of ADR and developing a marketing campaign in local government
- organising a seminar for Whitehall and Industry Group Lawyers and contributing to LCD research on the scale of current government ADR activity
- providing advice on the development of mediation in 'the planning system' for the Office of the Deputy Prime Minister and the Planning Inspectorate
- joining the Chief Medical Officer's Advisory Group on clinical negligence. Early reports suggest that some 80 per cent of those polled by the Group believe that mediation has much to offer in dealing with such disputes

- giving evidence to the Royal Society of Edinburgh's expert panel on mediation in patient/health service disputes
- CEDR is working with the University of Westminster to develop a multidisciplinary approach to dispute resolution theory and research. We have also hosted interns from Pepperdine University School of Law.

CEDR has contributed to the working party setting up the Civil Mediation Council.

We have been particularly active in communicating leading-edge developments to a range of other jurisdictions:

- hosting visits from international judges and ministry officials from: Albania, Bangladesh, Bulgaria, China, Japan, Kenya, The Netherlands, Russia, Serbia, Uganda and the USA
- representing the UK in Project Grotius, a comprehensive review of ADR by the EU involving Ministries of Justice of all European countries
- providing a 24-page response to the EU Green Paper, several recommendations and suggestions for change, which received widespread praise
- undertaking consultancy projects with the Russian government to review social welfare disputes and with the Slovakian government to help improve access to the civil and criminal justice system.

"I want government lawyers to consider the role that mediation can play in every case."

David Pearson, Head of Litigation,
Treasury Solicitor

Sharing knowledge

In April 2002 we launched the CEDR Exchange as a networking forum open to all individuals interested in keeping abreast of developments within the field of mediation.

CEDR's website continues to be updated on a daily basis with news items, articles, case studies and the latest case reports and analysis.

In December 2002, CEDR launched the EDR Law section of its website. This brings together for the first time all legal developments relating to effective dispute resolution and is updated as they happen. In its first month 2,700 copies of judgments of ADR relevant cases were downloaded.

We alert our members with news updates through a regular programme of information bulletins sent to all our contacts within our member organisations.

Regular networking events are held for members including briefings on recent developments.

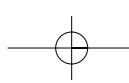
Subject specific forums and debates this year included employment, PFI and long-term contracts and emerging trends in mediation practice.

Working through its network of members, CEDR has developed a rolling programme of visits to law firm and corporate members.

CEDR continues to write articles, host and attend seminars and in the last year has accepted platform opportunities from the following:

- Medical Protection Society
- International Lawyers Conference
- AVMA Annual Conference
- American Bar Association
- Annual Conference for International In-house Lawyers, Brussels
- European Company Lawyers Conference - 'Confidentiality in mediation'
- Business Mediation Conference, Hamburg
- Legacy Officers of leading charities
- London Association of District Judges
- TUC Annual Conference
- Scottish Royal Society

In 2002, 22 per cent of CEDR mediations were court referred/court stayed.



CEDR wishes to thank the following sustaining members for their financial support. Surplus income from CEDR Solve's services is also reinvested into our mission-based projects, many of which have been highlighted in the previous pages.

Law firms / chambers	Crutes	Ince & Co	Penningtons	White & Case	Diageo plc	Accountants
Addleshaw Booth & Co	Debevoise & Plimpton	Kennedys	Pinsent Curtis Biddle	Wilde & Partners	Dtz Debenham Tie Leung	Andersen
Al Tamini & Company	Dechert	Kershaw Abbott	Radcliffes	Wilmer Cutler and Pickering	Esso Petroleum Company Limited	BDO Stoy Hayward
Allen & Overy	Dennis Faulkner & Alsop	Kirkland & Ellis	Reed Smith Warner Cranston	Winward Fearon	GlaxoSmithKline plc	Begbies Traynor
Anthony Gold	Denton Wilde Sapte	Lamb Buildings	Reynolds Porter Chamberlain	Witham Weld	Halliburton, Brown and Root Ltd	Deloitte & Touche
Ashurst Morris Crisp	DJ Freeman	Lawrence Graham	Richards Butler	Wollastons	Heath Lambert Group	Grant Thornton
Baker & McKenzie	DLA	Lee & Thompson	Ronan Daly Jermyn	Wragge & Co	High Point Rendall Group plc	Horwath Clark and Whitehill
Barlow Lyde & Gilbert	DMH	Lewis Silkin	Roschier Holmberg	Wright Son & Pepper	HSBC Holdings plc	KPMG
Batchelors Solicitors	Druces & Attlee	Linklaters	Rosenblatt Solicitors	York Chambers	J Sainsbury plc	Levy Gee
Beachcroft Wansbroughs	Edwards Geldard	Lovells	S Aronson & Company	Corporates	James R Knowles	PricewaterhouseCoopers
Beale and Company	Eversheds	Mace & Jones	Serle Court Chambers	Abbey National plc	Jorden Salata Graham	R G L International
48 Bedford Row	Evill and Coleman	Macfarlanes	Shakespeares	Akzo Nobel NV	Kier Group plc	RSM Robson Rhodes
Berwin Leighton Paisner	Fancy & Jackson	Mackintosh Solicitors	Shoosmiths	AMEC plc	Lafarge Group	EDR organisations
Beyan Ashford	Farrer & Co	Manches	Simmons & Simmons	Aon Corporation	Lloyds TSB Group plc	Access Dispute Resolution Committee
Bird & Bird	Farrington Webb	Masons	Sinclair Roche & Temperley	AstraZeneca plc	Marks & Spencer plc	Ah Hal Sustainable Solutions (Pty) Ltd
Borenus Kempington Oy	Fenwick Elliott	Matheson Ormsby Prentice	Skadden Arps Slate Meagher & Flom	AXA UK plc	National Grid Group plc	Arbitration & Dispute Resolution
Aslanajst	Field Fisher Waterhouse	Matthew Arnold & Baldwin	Slaughter and May	BAIFour Beatty plc	Nestle SA	Law Journal
Brown Jacobson	Finers Stephens Innocent	Maxwell Batley	Stamp Jackson and Proctor	Barclays plc	Nominet UK	Intermediation Group Ltd
Burges Salmon	Fox Williams	Mayer Brown Rowe & Maw	Steele Raymond	Bovis Lend Lease	Novartis AG	Malta Dispute Management Limited
Burness	Freshfields Bruckhaus Derringer	McLoughlin & Co	Stephenson Harwood	BP plc	R J Wallace Syndicate 386	Resolex Ltd
Cartmell Shepherd	Fulbright & Jaworski	Michaelson & Wallace	3 Stone Buildings	BAT plc	Railtrack Group plc	
Charles Russell	Glovers	Mills & Reeve	Taylor Vinters	British Nuclear Fuels plc	Rio Tinto plc	
Clarke Willmott & Clarke	Gouldens	Mishcon de Reya	Temperley Skadden SRPS Slate	BT plc	Scottish Power plc	
Clifford Chance	Hammonds	Morecroft Urquhart	Theodore Goddard	Brittanic Group plc	Shell International Ltd	
Clyde & Co	Herbert Smith	Morgan Lewis & Bockius	Tucker Turner Kingsley Wood	Cable & Wireless plc	Shepherd Building Group Ltd	
CMS Cameron McKenna	Hextall Erskine	Morison Bishop	Tweedie & Pridaux	CGNU plc	Skanska Construction UK Ltd	
Coudert Brothers	Hill Dickinson	Nabarro Nathanson	3 Verulam Buildings	Charles Taylor Consulting plc	Smiths Group plc	
Covington & Burling	Hill Taylor Dickinson	Nicholson Graham and Jones	W Davies & Son	Citigroup Inc	Standard Chartered plc	
Crombie Wilkinson	Coudert Brothers	Olswang	Walker Morris	Consignia plc	Tesco plc	
	Covington & Burling	Orchard Solicitors	Ward Hadaway	Daniel Connal Partnership	Thames Water plc	
	Crombie Wilkinson	Park Nelson	Watson Farley and Williams		The Crown Estate	

Clients

Our clients represent almost every spectrum of business, from international conglomerates to small family businesses, from the public, voluntary and private sectors.

AGFA	Cradley Group Holdings Plc	Lloyds Bank Plc	Rhone-Poulenc Agricultural Ltd	Overseas Clients	Feldbinder Spezialfahrzeugwerk GmbH	Quink Music BV
AIB (UK) Plc	Datapulse Plc	Lombard North Central Plc	Rigby Cement Plc	ACE Insurance SA-NV	Ferber & Hanusa GmbH	Sahara India Airlines
AIG Europe (UK) Ltd	Diageo Plc	London Trust Bank Plc	Ryder Plc	Alcatel USA Inc	Finnish Bar Association	Sanofi Synthelabo APa
Aker Oil & Gas Technology Plc	Ecclesiastical Insurance Office Plc	Marconi Corporation Plc	Safeway Stores Plc	Alpha Bank A E	First National Bank	Seashore Marine SA
Alliance Paper Group Plc	Elizabeth Arden	Marley Plc	J Sainsbury Plc	Amsterdam ADR Inst.	Goldman Sachs	Seguros Fenix SA
Allied Dunbar Assurance Plc	Esso Company Ltd	Mars UK Ltd	Sercio	API Anonima Petroli Italiana Spa	Gulf Air	Seguros Colpatria SA
Alltruck Plc	Fine Art Development Plc	Martin Buznl International Ltd	Shell (UK) Ltd	Atlas Copco Crepelle SA	Hawere Probst GmbH	Shell E & P Offshore Services BV
Aram Resources Plc	Freecom.net GB Plc	McDonald Hotel Plc	Stock Plc	Axa Colonis Versicherung AG	Hino Motors (Europe) NV	SIB Imprimerie
Aramark Plc	GEHE UK Plc	Mercantile International Group Plc	Stork Gears & Services	Bank Boston NA	Slovak Ministry of Justice	Sideco SA
Arinso UK Plc	Glaxo Smith Kline	MG Rover Group	Supremia International Plc	Baxter Deutschland GmbH	Statoil Venezuela Exploration SA	Slovenian Ministry of Justice
Associated Close Case Centre Plc	Home Office	Microsoft	Transco Plc	Balnewood Andrews Computing Plc (BA)	Stork Engineers & Contractors BV	Storkoil
AXA Reinsurance UK Plc	HSBC	Ministry of Defence	Tantus Plc	Berliner Bank AG (now Bank F Bradbury BV)	Swedish Dispute Resolution Centre KPMG	Storkoil
Babcock International Group Plc	Hyperion Software (UK) Plc	National Audit Office	Tesco Stores	Cargill International SA	Lansforsakringsbolaget AB	Tokai Bank Europe plc
Bank Leumi (UK) Plc	International Trade Indemnity Inc	Nelson Money Managers Plc	Texaco Ltd	Coca Cola Denmark	Lauritzen AS	Tokyo Mitsubishi International Plc
Barpro Group Plc	Island Computing Group Plc	Newman Tonks Group Plc	Thales Electronics Plc	Comau SPA	Lodge Fordertechnik GmbH	Ugandan Ministry of Justice
BCCI	Ivy Business Training Software Plc	Nff Plc	The Marlborough Stirling Group Plc	Cyprus Popular Bank	Logis Nautique SA	United Bank of Kuwait
British Airways	J Rothschild Assurance Plc	Ocean Group Plc	The Paper House Group plc	De Beers Diamonds	Maltese Ministry of Justice	Vitol SA
British Timkin Plc	JD Wetherspoon Plc	Otis Plc	Times Newspapers	Dedo Halunik AG	Mediterranean Shipping Co SA	Zurich American Insurance Co.
BT Plc	John Mowlem & Co Plc	Pendragon Motor Group	Tom Cobleigh Plc	Drevik International AS	Mgmack (Nordick Oil Services Ltd)	
Bullough Plc	Johnson & Johnson Furniture Plc	Phoenix Assurance Plc	UBS AG	Elektrim SA	Mehred Etebar Farimani	
Camelot Group Plc	Kewill Systems Plc	Porsche Cars GB Ltd	Universal Salvage Plc	Elon Trading BV	Milan Chamber of Arbitration	
Charnos Plc	Kimberley Developments Plc	Pressac Plc	Venture Finance Plc	Embrex Stickerein AG	Milantic Trans SA	
Cheltenham & Gloucester Plc	Kwik-Fit Holdings Plc	PriceWaterhouseCoopers	Welcome Software Plc	European Aviation Group	Mitsubishi Corp	
Chesterton International Plc	Landhurst Leasing Plc	Probus Estates Plc	Wiggin & Co	European Healthcare Group Plc	Netherlands Ministry of Justice	
Ciro Citterio Plc	Legalis Plc	Railtrack Plc		Preussag Wasser & Rohrtechnik GmbH	Netherlands Mediation Inst.	
Citicorp	Lincoln Financial Group Plc	Reed Executives Plc				
Computer Associates Plc						
Consulate Wines Plc						
Cornhill Insurance Plc						
Coutts & Co						

