



Dispute Resolution Centre Wales (“DRC Wales”)

Mediation, Evaluation, Adjudication and Arbitration

Background and need for DRC Wales.

1. The legal sector in Wales has demonstrated particular skill and capacity to work effectively on a collaborative, cross-agency basis. Notably, collaborative work in Wales in response to the challenges of Covid-19 for the justice system has been repeatedly commended, including by UK and Welsh Governments, and by the judiciary.
2. The Welsh administrative justice sector is also denser and comparatively better networked than is the case for other parts of the UK. A distinctly collaborative Welsh modus can be developed across civil and administrative justice.
3. Alternative Dispute Resolution (ADR) was recognised by the influential Commission on Justice in Wales¹ (“The Commission”) as providing quick and cost-effective options for resolving disputes in both private and public law. The Commission found capacity and expertise across Wales to provide ADR services.
4. The Commission made three core recommendations for civil and administrative justice in Wales: co-ordination; rationalisation, and potential solutions for the longer-term. The Welsh Government has signalled its plans to engage with stakeholders to take forward recommendations of The Commission to co-ordinate and rationalise civil and administrative dispute resolution in Wales.

¹ <https://www.gov.wales/commission-justice-wales>



5. At this time, a distinctively Welsh approach to dispute resolution should be fostered, promoted, co-ordinated, and monitored, to capitalise on good practice and encourage future developments.
6. Dispute resolution is also an important area of focus for current UK Government policy, with a recent consultation having been conducted on all forms of dispute resolution short of litigation in civil, family, and administrative jurisdictions². The findings will inform work on how to utilise dispute resolution processes to deliver swifter, more cost-effective and more consensual access to justice. This present document takes into account the summary of evidence received by the consultation.
7. Current timing presents the dispute resolution sector in Wales with an opportunity to draw on its strengths, to place itself at the forefront of these noted developments, to be a market leader in harnessing new technologies and establishing best practices, whilst also responding to The Commission's recommendations (endorsed by Welsh Government) for a uniquely Welsh approach to the promotion, co-ordination, and oversight of dispute resolution.

DRC Wales

8. Dispute Resolution Centre Wales Canolfan Datrys Anghydfodau Cymru Ltd ("DRC Wales") has been incorporated as a company limited by guarantee. This is the vehicle through which the DRC Wales Board will carry out its remit. Whilst an independent entity, DRC Wales draws its inspiration and support from the Law Council of Wales³, which has been instrumental in convening a group of leading dispute resolution practitioners with a particular interest in promoting dispute resolution in the Welsh context. The DRC Wales Board is interdisciplinary, comprising dispute resolution professionals drawn from the

² <https://www.gov.uk/government/consultations/dispute-resolution-in-england-and-wales-call-for-evidence>

³ <https://www.lawcouncil.wales/>



law, academia, government, public, third, and legal sectors, and Welsh judiciary.

9. DRC Wales conducts its activities under three core themes: promotion, education, and research; co-ordination; and supervision/oversight.

Promotion, education, and research

10. DRC Wales aims to promote awareness, education, and research with respect to dispute resolution in Wales, including through:
 - a. Offering advice to Welsh Universities on a review of their syllabi and approaches to how dispute resolution is taught and emphasised;
 - b. Encouraging students, trainees and pupils to embrace dispute resolution with competitions (mock mediations, essay writing etc), which are celebrated and rewarded within the professions, e.g., with internship opportunities in the field of dispute resolution;
 - c. Providing courses on different aspects of dispute resolution to be provided as part of professional CPD throughout Welsh professions;
 - d. Encouraging the Welsh judiciary to actively embrace and commit to promotion of non-court dispute resolution;
 - e. Encouraging the development of a 'whole careers approach' to dispute resolution learning;
 - f. Providing a focal point for dispute resolution research conducted in or in relation to Wales;
 - g. Fostering opportunities to market a "Welsh model" of dispute resolution and, by implication, of Wales within other parts of the UK and abroad; and



- h. Considering development of a professional badge of honour to award to those who dedicate significant endeavour to dispute resolution.

Co-ordination

- 11. DRC Wales aims to improve the co-ordination of dispute resolution in Wales, including through:
 - a. Establishing an accredited panel of mediators, evaluators, adjudicators and arbitrators, operating in Wales, and in both the English & Welsh languages;
 - b. Bringing together dispute resolution institutes (civil, workplace, community and family) within all professions, to encourage better common working, accreditation, kite marking and celebration of dispute resolution excellence within all sectors in Wales;
 - c. Exploring and developing all forms of dispute resolution (including forms conducted via online platforms or with the assistance of other technology) in Wales and how to become a model of good practice beyond Wales;
 - d. Considering development, support and finance of formal systems of dispute resolution triage in the DNA of the developing Welsh tribunals system;
 - e. Engaging with other key bodies in the promotion, co-ordination and oversight of dispute resolution in Wales.; and
 - f. In the longer term, acting as an appointing body where the identity of dispute resolution professionals cannot be agreed.



Supervision/Oversight

12. DRC Wales aims to supervise the principled use and development of dispute resolution in Wales, and oversee the broader landscape, including through:

- a. Establishing a Wales Dispute Resolution Pledge (“WDRP”) promoting and encouraging diversity and the awareness and use of modern, flexible, creative and constructive approaches to dispute resolution, and offering an opportunity to demonstrate, to individuals, businesses and other stakeholders, approaches to how disputes can be managed, conducted and resolved without the need for recourse to the court system;
- b. Encouraging Welsh Government, other public bodies and significant commercial entities operating in Wales, to meaningfully commit to WDRP principles;
- c. Conducting promotion, education and co-ordination activities in a manner that encourages and facilitates a principled approach to dispute resolution and relevant information sharing across relevant sectors in Wales; and
- d. Monitoring the development of the overall dispute resolution landscape as pertains to Wales and providing expert evidence-based advice and commentary, including through submissions to relevant consultation exercises.



Wales Dispute Resolution Pledge

13. The Wales Dispute Resolution Pledge (“WDRP”) is aimed at promoting and encouraging diversity and the awareness and use of modern, flexible, creative, cost-effective and constructive approaches to dispute resolution in Wales.
14. WDRP offers an opportunity to demonstrate, to individuals, businesses, and other stakeholders, approaches as to how disputes can be appropriately managed, conducted, and resolved in a manner which lessens the burden on the court system.
15. WDRP enables Welsh Government, Devolved Welsh Authorities, other public bodies and significant commercial entities operating in Wales, to demonstrate their commitment to resolving disputes efficiently, effectively, fairly, and to making timely use of the most appropriate dispute resolution mechanisms, expressly including both a wide range of alternative non-litigious options or negotiated processes and digital/online mechanisms.
16. By adopting WDRP, public bodies are communicating to their service users, contractual partners, employees, and to the general public, their commitment to diversity as well as to avoiding costly litigation wherever possible, and that they are serious about adopting the highest contemporary standards of timely, effective and integrated dispute resolution.
17. Entities adopting the WDRP will be named on the DRC Wales website, acknowledging their progressive stance to dispute resolution.
18. The full WDRP is set out in Schedule One below.



Schedule One – The Wales Dispute Resolution Pledge

The Wales Dispute Resolution Pledge (“WDRP”) is aimed at promoting and encouraging diversity and the awareness and use of modern, flexible, creative, cost-effective and constructive approaches to dispute resolution. WDRP offers an opportunity to demonstrate, to individuals, businesses, and other stakeholders, approaches to how disputes can be appropriately managed, conducted, and resolved in a manner which lessens the burden on the court system.

WDRP enables Welsh Government, Devolved Welsh Authorities, other public bodies and significant commercial entities operating in Wales, to demonstrate their commitment to diversity and to resolving disputes efficiently, effectively, fairly, and to making timely use of the most appropriate dispute resolution mechanisms, expressly including both a wide range of alternative non-litigious options or negotiated processes and digital/online mechanisms.

By adopting WDRP, public bodies are communicating to their service users, contractual partners, employees, and to the general public, their commitment to diversity and to avoiding costly litigation wherever possible, and that they are serious about adopting the highest contemporary standards of timely, effective and integrated dispute resolution.

Public bodies and significant commercial entities operating in Wales commit to:

- being proactive in the development of greater diversity within the approach to dispute resolution.
- being proactive in the avoidance and management of potential disputes, and in working to prevent disputes arising or escalating;



- clearly explaining approaches to be taken by public bodies and significant commercial entities operating in Wales to dispute resolution, including all informal and formal mechanisms that may be pursued, in complaints and internal review procedure documents and other dispute handling procedure documents, and ensuring that such documents are published accessibly online, and use a level of language suitable to the intended readership;
- ensuring that relevant public documents referencing dispute resolution also provide clear information about how individuals can access advice (including legal advice), support, and advocacy, as concerns both public and private law matters;
- ensuring that public bodies approach dispute avoidance, the management of potential disputes, and dispute resolution, with respect for human rights, equality, restorative justice principles, and in accordance with the sustainable development principle and Five Ways of Working under the Well-being of Future Generations (Wales) Act 2015 (namely: long-term, prevention, integration, collaboration and involvement) and that significant commercial entities also approach dispute avoidance and resolution within the spirit of respect for human rights, equality, restorative justice and well-being principles;
- ensuring that approaches to dispute avoidance, the management of potential disputes, and dispute resolution, ensure equal treatment of all persons regardless of language preference between the English and Welsh languages;
- engaging in processes of appropriate dispute resolution in respect of any dispute that has not been resolved through the organisation's normal complaints and/or internal review procedures, and that litigation will only be pursued as a last resort where it is considered essential as a matter of legal principle, public interest, or the necessary vindication of legal rights;



- adopting appropriate dispute resolution clauses in contracts with other parties;
- using prompt, cost effective, accessible, and efficient processes for completing negotiations and resolving disputes;
- choosing processes appropriate in style, specialisation, potential outcomes, and proportionate in costs to the issues that need to be resolved;
- making informed choices by considering the benefits to the public body or significant commercial entity, to whomever they are in dispute with, and other interested parties, of all available processes in achieving resolution;
- making effective use of multiple channels of dispute resolution, including digital/online, telephone and in-person, where relevant to the issues and persons involved;
- ensuring that dispute resolution processes adopted accommodate the interests of unrepresented parties and that such parties are not disadvantaged;
- ensuring that where litigation or other adversarial processes have been commenced, that other forms of dispute resolution continue to be considered at appropriate stages during the progress of proceedings;
- ensuring that all approaches to dispute avoidance, the management of potential disputes, and dispute resolution, are grounded in continuous improvement and learning, including from the outcomes of dispute resolution processes;
- ensuring that employees and officials are informed and educated with respect to dispute resolution procedures, mechanisms, and techniques, and with respect to the WDRP, and that continuing professional development is made available to relevant employees and officials.