



Tracey Varnava, Education Research Manager

Education and Training Unit

Solicitors Regulation Authority

By Email: tracey.varnava@sra.org.uk

22nd October 2012

Dear Ms. Varnava,

Re: Legal Education and Training Review

I am writing on behalf of the Academic Committee of the Civil Mediation Council to urge LETR to support the integration of the study of alternative dispute resolution processes into the legal curriculum for the LLB degree/GDL programme. The Civil Mediation Council is an independent organisation which represents and promotes civil and commercial mediation and other forms of dispute resolution, particularly, but not exclusively, mediation as alternatives to litigation. Its aims include furtherance of law reform and access to justice for the general public, and the creation of a culture of best practice by encouraging research, continuing education and enhancing quality standards in the field. The Academic Committee is comprised of academics having an interest in dispute processes and the development of scholarship in the field.

Recently, the CMC sponsored research to determine the extent to which dispute resolution processes are studied as part of the law undergraduate and graduate degree programmes in England and Wales. While such courses appear more frequently on an LLM degree, it is rare to find them on an undergraduate law degree. Given the place of alternative methods of resolving disputes in civil justice today, primarily with its integration in the CPR obliging both parties and judges alike to consider the use of alternative forms of dispute resolution, and in the various government initiatives to require parties to consider mediation prior to proceeding with litigation, the omission is odd, to say the least.

Students of law need to understand the role of ADR and dispute resolution processes in the civil justice system of England and Wales; in particular, to be aware of the various processes available to deal with disputes ranging from bilateral negotiation to the traditional trial. They need to be able to understand the nature of conflict, the emergence of disputes, and the appropriate method to deal with particular disputes. Learning about disputing processes, the Committee submits, is integral to the

The International Dispute Resolution Centre, 70 Fleet Street, London, EC4Y 1EU

Officers: William Wood QC (Acting-Chair and Vice-Chair)

Richard Schiffer (Treasurer) – Clive Lewis OBE (Hon Secretary)

Contact the Registrar, Tracey Stewart, 020 7353 3227

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whole process of learning in the law degree. It is a misconception to believe that ADR/dispute resolution is a skills-based course with no application of theoretical principles. A proper scholarly consideration of disputing processes requires a theoretical approach to, for example, the issue of the development of conflict, elements comprising social order, access to justice, broader issues of justice and its place in civil justice systems, the debate between the informalism and formalism of various processes as impacting the development of judicial precedent and the increase of state power in private matters, and the impact of disputing on community. It is insufficient to leave the consideration to the vocational stage of learning where only broad principles are considered, where the approach is more technical and practically-based.

While law schools in the United States, Canada and Australia have recognized the place of ADR within the law school curriculum by offering a panoply of courses dealing with disputing processes, the mantle is being led by the Law Society of Scotland in the United Kingdom. In its 2010 Report on Foundation Programmes, it requires as part of the foundation programme for the LLB degree “knowledge of the structure of the court system, role of courts including judicial review, and tribunals, inquiries, and dispute resolution.” It also requires that students understand the differing roles within and outside the legal profession and challenges to the legal profession. Furthermore, under a key communication skills requirement, it requires the demonstration of the ability to address the resolution of disputes by a variety of adversarial and non-adversarial skills.

The requirement to address ADR as part of the LLB programme will enrich the legal curriculum. Law schools may choose to include ADR within an existing module such as Legal System/Legal Methods or alternatively offer a more extensive treatment of ADR in a dispute resolution module. The key is to enhance the curriculum by recognizing the place of ADR/dispute resolution in the civil justice system of England and Wales.

If LETR requires any further information, please let the Committee know.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Loukas Mistelis', is written over a light blue horizontal line.

Prof. Loukas Mistelis
Dr Debbie De Girolamo
Centre for Commercial Law Studies
Queen Mary, University of London
On Behalf of the Civil Mediation Council Academic Committee

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