

Part 3 – External mediation pilot (the Bidura pilot) and the independent evaluation of both programs

NSW Legal Aid manages the external mediation pilot. It is being conducted through the Bidura Children's Court in Glebe, and was officially launched on the 9th of September 2010. The external mediation pilot was created in response to the Wood report's recommendation for flexibility, and access to external ADR services in the Children's Court.

The external mediation pilot involves an adaptation of Legal Aid's existing Family Dispute Resolution model. All mediators are chosen from a pre-selected panel of 11 mediators who are Family Dispute Resolution practitioners. Three of these mediators are Aboriginal. The mediators come from a variety of backgrounds, and all have received training in the care and protection jurisdiction.

Conferences are conducted using a mediation model, similar in format to the model used in DRCs. This includes private sessions. These conferences are confidential, and each party is required to sign a Confidentiality Agreement prior to the conference commencing.

The pilot will conduct mediation in 100 care matters. All matters will be referred by a Children's Magistrate from Bidura Children's Court, under s 65A of the Care Act. Matters will only be referred to the pilot *after* a child is found to be in need of care and protection, or *after* the granting of leave, if in relation to a section 90 application. If a matter has been referred to the external mediation pilot, it will generally not have a DRC as well.

The mediator has access to detailed intake forms completed by the parties and their lawyers, and all material filed in the Children's Court to date. The mediator will prepare a short report detailing whether an agreement was reached during the mediation, and if so, what the terms of the agreement were. This will be developed in consultation with the parties.

Any agreements reached during mediation will be presented before a Children's Magistrate. This will be done by a nominated lawyer. Mediations will be scheduled for a duration of three hours. All mediations will be conducted at Legal Aid's head offices in Sydney.

Extensions of legal aid grants will be provided to lawyers to attend conferences, where their client is in receipt of Legal Aid. Both the new model of DRC and the external mediation pilot will be subject to an independent evaluation.

The programs will be assessed against a number of qualitative and quantitative aims. We will be looking to consider the costs and benefits of each model, and how they can best complement each other.

Both lawyers and Community Services caseworkers and casework managers will have plenty of opportunity for feedback on an ongoing basis. All participants in both types of conference will be asked to complete a short questionnaire immediately after the conference.

This brings us to the end of part three of the podcast.

If you have any further questions, please contact the Department's Project Officer for Care and Protection, Shenuka Wraight, on 8688 7467.