

'Mediation Works' Symposium

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Mediation Works – Keynote Address

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Thank you very much, Karen. And I am delighted and honoured to be asked to speak at your major innovation I think here this morning, your first National Symposium of the Mediators Institute of Ireland. I will be talking a little bit in my presentation about innovation, but this to me is a major leap forward and a major piece of innovation for your association. And I am hoping that this will be an annual event and would very much be supportive of...of your efforts. And I know that an awful lot of work has gone on behind the scenes to make today happen and congratulations to Karen and to everybody who has been involved with this. It is certainly not easy to organise a conference of this nature. Well I am going to talk about just very briefly four different areas. First of all just the big imperative in Ireland and the quest for greater performance and innovation. And I am going to link then that to the mediation question and see where...how important is mediation to this search for innovation. I am going to talk briefly then about the national context and our national workplace strategy and where this...these approaches have been recommended there. And finally, I am going to talk to you about a piece of research that we have done in the NCPP very recently and I will talk about that now in a moment. But if you remember I did talk to your conference in Cork in November. And if you remember that, any of you who were...who were at it, we were very excited then because one of our staff, Julia Kelly, had just launched her first novel. And it had happened just the week before, and I was really so excited about this because I had been reading it on the train. And we were absolutely amazed at the high quality of writing and the...the high quality of her endeavours. By the way, since then she has won the Young Writer of the Year award in the Irish Book Awards. And she is also listed for one of the prizes in the Listowel Writers Week. So she has done very well and now she is publishing in England. So she has been a major success. But as luck would have it, last week a new book arrived on our desks in the NCPP also one of the authors, a member of the NCPP staff. Now Dr. Damien Thomas who is the NCPP person who is responsible for this with Professor Paul Teague of Queens University tells me that even though it is entitled *Employment Dispute Resolution and Standard Setting* that it is actually not a book of fiction. But he does tell me that it is a real thriller. So I just firstly want to say before I begin my own presentation that much of what I ...I say, particularly in the latter parts of this presentation is based on this book and particularly Dr. Damien Thomas' efforts and Professor Paul Teague's efforts. And this will be launched in three weeks time by the Minister for Labour Affairs, Minister...Mr. Kelleher, I nearly said Minister Killeen. Now if it looks a little bit weighty the reason is that there are a lot of case studies in it. So you can dip into it in terms of looking at...looking for the particular

references or case studies that...that you wish to pursue. But it is quite a seminal book in this whole area. And I will be talking about it in the course of this presentation. But just to begin, I suppose to remind ourselves that ...very much of the campaign of the NCPP is towards greater levels of innovation in Ireland. And it is true to say now that you know we are...we are very aware that a lot of production processes and lower level manufacturing activities are all moving eastwards towards China, India, Eastern Europe, Russia and...and other places. And in fact I think it was David Begg who is here today who said...articulated this in public a couple of years ago and said, really if production moves eastwards that is one thing, but if innovation capacity moves eastwards and moves away from Ireland then we are in real trouble. And that's...that's really the case. Because we are in ...in a...very much a global world. And the reason I use this is that I was talking to somebody recently...he is a Dad and he was helping his son with his homework. And he was challenged by this particular maths question. And he was a bit slow at...at finding the answers. And his son said to him, ah look...look...look he said, I am going to go on Bebo, my friend Zack in California or something is going to help me with the solution to this. So it just kind of brought home to him that we do really live in ...in a global world. And all of these massive communications across the world and the...I suppose the narrowing of the boundaries means that we do live in quite a different place now than even 10...20...or even 30 years ago. And we also know that massive efforts are being put in place in places like China and India to build their innovation capacity. They are seriously focused on this. Not only are they putting massive amounts of money into the development of that...I suppose awful world human capital. But developments in education, we all hear the figures about how many people are coming out of the universities in China and the creation of new universities on...on a daily basis, and the same in India. But more than that, they have a lot of capital, so they are investing that in research and development. And thirdly, they are very seriously working with professional people linking in to multinationals and what they call global value chains to make sure that they build the innovative capacity to move from this production stage that they are in now to become a much more global player in terms of innovation. But that's probably not really the reason that we in Ireland should be moving towards innovation. I think we have a much bigger reason to be looking at innovation. And it is this. We want to be at our best. We want to be working at our best in Ireland. And we are a very creative and a very innovative people. And if innovation is really the key to success now, why shouldn't we be one of the most innovative economies and societies in the world. And we do adhere to a...a structure that is very much on the high road of innovation and creativity as opposed to downsizing and...and restructuring. That is our philosophy and that is the thinking of the social partners. That is the thinking of the government. And that's what we aspire to...to be able to do. And there is a convergence between working at very high levels and at...at the maximum of innovative capacity. There is a convergence between what that will do for the economy and society and the organisation but also what it will do for the quality of working life of our workers. And there are many many definitions of innovation. But certainly for me the one that I like best is what Peter Drucker calls, that innovation is change that creates a new dimension of performance. And I think that is the best description for me of innovation. Because at one

stage I think innovation was considered to be an elitist activity. It was the...something that you would imagine scientists, people who have very deep understanding of technology, people in white coats. You might have considered your...your image of somebody who was innovative or involved in innovation was somebody who was a very specialised person. They were in ...in a very particular and very special environment in order to be creative and....and all of that. But innovation now has changed. Innovation is for everybody. And there are a lot of myths about innovation. But one of the myths is that it is an elitist activity and that it is not for everybody. And that is why I believe that the innovation quest and the search for innovation in Ireland is so important in relation to the work that mediators do. Because innovation now is everybody's business. Every one of us has the ability to be innovative. And as I said, this conference today, this is a major innovation. And it is a major piece of higher performance for the...the Mediators Institute of Ireland. And even as late as last night I was looking at another piece of innovation. My washing machine is...is....has been broken for the last week. And eventually I got around to getting somebody to fix it. And he hadn't come at 9.30 last night. And I was thinking of going for a walk. So I rang him and I said, Ken are you...you...you didn't come, are you not coming. Oh he said, it's not 12 o'clock yet. I said, well Godand I said, I am thinking of going for a walk. Oh no, no, he said, don't go for a walk, I will be there shortly. So he did come. And I said, God this is very late for you to be working. Not at all he said. I work in the evenings now all the time. I never work during the day. He said, I was fed up waiting outside people's houses, people coming from work and me sitting in cars waiting for them to come and sure nobody is there during the day. I work now at night. So there you are. So as I said, he has actually changed his business model completely and ...and works at night when...when we are all there. By the way the problem with my washing machine was that I had a plumber the week before and he forgot to turn on the particular water outlet for my...for my washing machine. So it...it was the plumber that cost me the money for the callout. But he did get...he did do me a little bit of good because he discovered that my freezer is trying to freeze the room instead of the...the ...the fridge itself. So that's a story for you. But innovation I think is...is the...is important for everybody and for every worker, for every organisation, for every federation. At every level I think we need higher performance and greater levels of innovation. And also as...as Peter Drucker says, in organisations today because of the knowledge economy and because of the way we work, much of our organisations, they...when we work at our best organisations are built on trust not on force. Because as we know, traditional forms of management and the command and control types of management, that really were relevant I suppose and applicable to the past, are certainly not appropriate for today's environment. And certainly not appropriate for today's environment where we need to involve people and we need to engage them and really create the conditions for them to work at their best. So going on then, because I know Karen is keeping a...a beedy eye on the clock. The importance of trust cannot be overestimated. Steven Covey has written an excellent book called The Speed of Trust. And I suppose if you imagine in your...in your hearts or in your heads this morning, a time when you were working at your best, when you were innovative, when you were very creative. If you just think about that time, I imagine that in that time there

wasn't much conflict in your life. There wasn't certainly much conflict in ...in your...in your workplace. There weren't big issues that were bothering you or displacing your...your effort or....or diffusing your ...your energies. Because to work at your best I think you need to have the freedom and you need to have the emotional freedom to be able to think, to be able to create, to be positive and to have ideas. And that is why I think the role of the...the mediators is that it provides a very quick and effective and successful solution to unlocking some of the conflictual and difficult situations that might prevent innovation or prevent us from working at our best and at...at our highest performance. Because you know as... as is often said, the cost of mistrust is very very expensive indeed. And I was just thinking for example at the conference in Cork, and I was reading Julia's book on the train. It occurred to me as I was coming in this morning I probably would have been able to go on that train to Cork today if your conference was in Cork. And there we have it. The cost of...of mistrust can be quite damaging to people's personalities and I suppose on their emotions. But it is a very expensive business as we all know. And the power of partnership as...as a counterbalancing to ...to conflict and to building better relationships in the work...the partnership really is the foundation and the basis for building trust, but also for building the kind of organisations that are founded on ...focused on greater levels of innovation. So just to...to finish on this particular piece, the particular practices then that we are promoting in the NCPP that bring about greater levels of innovation. Now there is a huge amount of literature on this. And the literature varies as to how do you get innovation going in your company. Can I say to those of you who are managers and people who are managers representatives here, the...the single most important thing above all else is managers commitment to innovation. If your manager and your senior manager is committed to innovation then it will happen. But interestingly enough managers are also the greatest blockers of innovation. Because if you have a style of management that is a traditional style you are not really interested in innovation, well then you are not likely to have an innovative organisation. So there is a huge role for management in the first instance. But equally then you know the...the basis I suppose of...of partnership, sharing knowledge, communication, sharing good information, generating new knowledge and generating new ideas, but also adapting, and adapting new...new knowledge to the business, and to the...to the industry that you are in, working in teams, you know, autonomous structures, less hierarchical structures, performance managements and rewards are hugely important, and learning absolutely everywhere. I mean learning is the key to innovation, because there is a very strong connect between the learning organisation and the innovative organisation. Because if you think about it, deep down we are all learners. And as we learn we get new ideas, we open our horizons and...and we are better at...at innovating. And also, and very relevant to Ireland today, being proactively diverse is a very good basis for innovation. Because if you have more diversity in your workplace you will also have a greater spread of ideas and a lot of new ideas coming in. So just to sum up then, in terms of the...the benefits that we see of innovation, and these were some of the benefits that Damien and ...and Paul Teague were able to draw from the research on Canada and...and Sweden in particular. First of all, as...as Karen said, it is an opportunity for those to...who are involved to address the issues and to provide their own solutions, to have ownership of the

problem and the solution. And that's...that's very very important in solving any particular conflict or difficulty. It's also what we call a safe space. And that idea...that idea of a safe space I think has been very very important in the national social partnership context. And those who have been involved would always cite the NESAC, the National Economic and Social Council, as that kind of safe space where issues can be discussed in a non-threatening way or where people can be honest and we can have really honest conversations and...and really look at the information objectively. It is also a service which is less formal and user friendly and less adversarial than one ...one of the more formal kinds of dispute resolution mechanisms. Speed is very very important. It can handle cases very very quickly. And mediators can get ...get in there and start the negotiations straight away. Now the biggest thing...things for...for mediation is that it gets to the heart and the source of the problem and it deals with the problem at its source. It doesn't move on to different fora or it doesn't move out of the workplace or out of the department and go on to become a very entrenched and a bigger problem as it moves along. So it...it deals with the issue at the heart of the problem. It also has a very high success rate providing innovative and...and customised solutions. And it has, very importantly for what we are talking about earlier, a very strong focus on restoring normality and restoring trust in the workplace. I am not one of these people who...who believes that you actually have to have 100% trust, that you either have trust or you don't have it, that if trust is broken it's broken. I believe that the way the nature that we ...we work as individuals and as...as people is that we...sometimes trust is damaged but you rebuild trust and you make efforts to ...to rebuild it. And it is the same happens in the workplace. Conflict will always happen in the workplace. And we need to have very...a great menu of ways of dealing with that conflict. And it doesn't duplicate other forms of ...of dispute resolution. Now in relation to...how does this ...how is this observed at national level or is there support for this at national level? Well yes there is support for this at national level. We have, as you know, the National Workplace Strategy. Conor Leeson from our staff said that I was to show this I suppose as part of our national awareness campaign. You might have seen this on the buses the open to partnership and developments in the National Workplace Strategy. But that...that strategy has been in place now for three years. It has been implemented by the government. It has great support. And it does build a consensus around the bigger issues that we need to address in the workplace in workplace development here in Ireland. And its main themes, I suppose, are the commitment to workplace innovation, building capacity for change, the whole learning area and developing future skills, affording more access to opportunities and building the quality of working lives. Now there is a lot to be said about the National Workplace Strategy but I won't say it today. And what I will do is, I will just move on quickly and just show you the recommendations that have been set out in the National Workplace Strategy around the area of alternative dispute resolution. For example, recommendation 19 says, a range of actions and initiatives should be considered to ensure the continuance of the public dispute resolution machinery's capacity for resolving disputes fairly and expeditiously. This could include a commitment by the relevant public agencies and social partners to further experiment with joint problem-solving, mediation and informal approaches to dispute resolution and avoidance. Well now that qualification,

this could include, I think since then has happened. And in the last three years I think we have moved a considerable way towards accepting mediation as a very important form of dispute resolution and a very important addition to the current areas of dispute resolution. It also says that in terms of the Labour Relations Commission, that it should afford greater priority to working proactively with employers, employees and trade unions, to assist organisations in devising and enhancing their inhouse approaches to dispute resolution and avoidance. Improving the quality of such enterprise level arrangements has the potential to enhance organisational capacity for managing change. Again that is very much looking at the issue of resolving disputes as early as possible and as close as possible to the source. So these recommendations, following those recommendations we undertook in the NCPP then, to undertake this piece of research, Employment Dispute Resolution and Standing...Standard Setting. And what it involves was case studies of Irish organisations and in particular the Labour Court, the LRC, the Equality Tribunal, and particularly the mediation service there, the Employment Appeals Tribunal, the Health and Safety Authority, just in the way it...it goes about its regulatory area and also the more self regulation. I think there are a lot of innovations happening there. Also at that point it was the Labour Inspectorate. Now as you know a new organisation, NERA, has been formed. And then the...the study went to Sweden, the UK and to Canada. Now there is a lot here so I...in the...in the short time that I have left, I will just give you some lessons that have been brought back from the Canadian situation. Because Canada is quite innovative in this area. And they are quite well along the...the road. First of all the informal conflict management system is now a statutory requirement in Canada. They have gone from accepting that mediation is important to saying that these alternative forms of dispute resolution have to be applied before the parties go further and go to the...the formal dispute resolution areas. It is a very...there is a very effective national support infrastructure there...lots of public institutions supporting alternative dispute resolution. But also I think signalling very strongly the public interest and the need for very formal public institutions there as well. And it is appropriate to disputes of interest and rights-based disputes. It supports and complements existing services as we have said. But there is a lot of policy experimentation and evaluation which is ...can be customised to the individual situations. It is very well resourced. But there is a greater focus there on dispute prevention and...and the inhouse capacity for resolving problems. Again we are moving towards that here, but they are much further down the road. And again, as I said, it does reinforce the public interest role. Similarly in Sweden the focus on mediation is on mediation close to the source, and having I suppose different stages and different requirements in resolving fairly major disputes. So I would very much encourage you to read the case studies here, particularly the...the one on Canada, because I think it's...it's quite...it's quite helpful in terms of moving the debate forward and seeing what can be done in other countries. Now I am going to move swiftly on. And just to say ...to finish...that the LRC has now set up its own mediation service. And the...while I think I spoke to you last November it was a pilot, it is actually a fully fledged service now. It has a fully fledged workplace mediation service. And that...that's working quite well. And I think that's a...a major development. And that was actually developed by the ...the LRC staff themselves. So

mediation has a very big role. I think this kind of conference can help us to start the conversation about where it fits into our own situation here. But I think it is very helpful for us to have these studies done from abroad. So I am going to finish up, because I know Karen is looking at me in terms of the clock. And we have a very important panel discussion afterwards. But really the basic question is, how are we going to release the creativity and therelease our...our workers to perform at their best so that in all our workplaces and in Ireland we can grasp the innovation challenge and really be at our best in this globalised economy. Thank you very very much. [applause]