



Date: 8 February 2016
Contact: E. Patricia Ebanks
Tel: (345) 938-2209

Judicial Administration Prepares to Introduce Mediation

In advance of the introduction of mediation as an option for resolving disputes coming before the Courts, fifteen judges, magistrates, attorneys and senior staff participated last weekend (5 to 7 February, 2016) in accredited mediation training conducted by the London School of Mediation (LSM)

Following the three-day intensive training programme that included family mediation, the 15 candidates will sit an examination leading to qualification as Certified Civil Commercial Mediators. In accordance with international standards, the group will be required to refresh skills in six hours of training annually.

The training is part of arrangements that are expected to lead to the introduction of mediation later this year for suitable family cases coming before the courts. The Grand Court Rules Committee has already drafted rules that will come into force once all administrative arrangements are in place, said Chief Justice Anthony Smellie, who undertook mediation training at LSM last year.

“Mediation is not for all disputes, but many of the most complex disputes that aren’t resolved through negotiation are resolved in mediation,” said Judith Kelbie, the Director of the London School of Mediation, a member of the three-person team in Cayman for the training.

At least 80% of cases across all dispute categories that opt for mediation are resolved, Ms Kelbie said, adding that while mediation may not be an option for every case, it continues to prove itself to be a creative way to find solutions.

“Mediation encourages creative solutions that can go beyond what a court can do,” Ms Kelbie explained, saying that it offers a confidential environment “without prejudice” that challenges, probes, and explores options and risks. “Without prejudice” means that if the case ultimately takes the traditional judicial route, nothing that is said or done in the earlier mediation process will have any legal or judicial consequences.

Once the Cayman court has completed arrangements for the introduction of mediation, a judge, magistrate or outside mediator will be available to parties wishing to go this route. “Ultimately, all new family cases, including divorce matters and all matters involving the welfare of a child (apart from cases in which the State has had to intervene), will be automatically referred for mediation,” said Chief Justice Smellie.

The first step in the process will be mandatory Mediation Information and Assessment Meetings (MIAMS), which will allow parties to assess this as an option. Parties that ultimately choose to

enter into mediation may retain or be encouraged by the court to retain legal or other support for the process to ensure no one is disadvantaged and may opt out at any point, Justice Smellie said.

An advantage of mediation for divorce proceedings is, for example, the avoidance of expensive protracted legal proceedings, a benefit at a time when separating parties often have scarce resources, said Ms Kelbie.

“This will be a completely different role for judges,” said the Chief Justice. “As a mediator, they are not judging or deciding, but encouraging and facilitating parties to arrive at a settlement.”

The LSM enjoys international clientele from countries such as India, South Africa, the Bahamas, New Zealand, and from all across Europe. The school currently anticipates projects in Hong Kong and Dubai.

For the 15 Cayman candidates for certification by the LSM, it was a “steep learning curve,” Ms Kelbie said, but “they have worked very hard in applying their fine minds,” to the training. “I am highly passionate about mediation as a way to resolve disputes and I hope that I have left a little of my passion with them.”



Judges, Magistrates, and senior officials attending the mediation workshop: from left, front -- Solicitor General Jacqueline Wilson, Chief Magistrate Nova Hall, Acting Magistrate Grace Donalds, Justice Robin McMillan, Acting Magistrate Angelyn Hernandez, Justice Ingrid Mangatal, LSM Tutor Kelly Prydderch, LSM Director Judith Kelbie, Senior Crown Counsel and Court Administrator Designate Suzanne Bothwell. Rear, from left, Clerk of Court Tabitha Philander, Magistrate Kirsty-Ann Gunn, Attorney and Member of the Grand Court Rules Committee Hector Robinson, Acting Magistrate Phillipa McFarlane, Justice Richard Williams, Registrar of the Court of Appeal Audrey Bodden, Chief Justice Anthony Smellie, LSM Tutor and Accredited Family Mediator Lizzie Haynes, and Justice Charles Quin.

--Ends--