



Resolving injury claims: looking around and looking forward

**A presentation for the Injuries Resolution Board conference
by Tony Allen**

Senior Consultant to CEDR

Different Approaches to Resolving Injury Claims

What are the challenges arising from injury claims?

- The main intersection between citizens and civil justice
- Strong feelings of claimants and defendants v emotionless business
- Sheer numbers
- Technicality
- Adversariality
- (Small?) possibility of exaggerated and fraudulent claims
- Yet very high settlement rates

Different Approaches to Resolving Injury Claims

A look at some settlement statistics

	SCA	NHS Resolution
% Clinical claims settled before issue	58%	80% (E&W has PAPs)
% Clinical claims tried	2%	less than 1%
% Clinical claims settled with no damages	42%	49%
On total payouts, % legal costs	28% (€144m)	25% (£650m)

Different Approaches to Resolving Injury Claims

The tortious approach:

- Ireland – statutory extra-judicial with judicial basis backup
- England & Wales – judicial basis throughout

The non-tortious (statutory extra-judicial)approach

- New Zealand
- British Columbia

Different Approaches to Resolving Injury Claims

- What is the place of alternative dispute resolution?
- What does mediation specifically add as a process?
- Ways to develop the usefulness of mediation

Law Reform and the “Voluntariness” of Mediation

“Participation in mediation shall be voluntary at all times”

Mediation Act 2017 s.6.2

“Mediation is a voluntary and confidential process”

Injuries Resolution Board website

How far does “voluntariness” extend?

The revolution in England & Wales – one day in Ireland?



Questions and Debate



Thank You.

Tony Allen

www.cedr.com

