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How to avoid courting disaster:



Polly Phillimore (right), service director, with Sheila Healy, manager, at the family mediation service in Dolphin House, East Essex Street, Dublin.

Photograph: Alan Betson

KITTY HOLLAND

A new mediation service aims to make break-ups less acrimonious by helping couples to settle disputes out of court

A PILOT PROJECT at the Dublin District Court aims to steer parents in dispute away from the acrimony of the courts and into a process of mediation leading, ultimately, to agreement. If successful, the Dolphin House family mediation service may be rolled out in courts across the State.

An initiative of the Family Support Agency (FSA), the Courts Service and the Legal Aid Board, the service is aimed at separated, or separating, parents – married or not – who are unable to agree about custody, access, guardianship and/or maintenance issues. Its simple aim is to keep them out of court.

As service director Polly Phillimore, explains, the new initiative differs from the current mediation service offered by the FSA. It is in the same building as the main family law court in Dublin, at Dolphin House in Temple Bar.

Legal Aid Board solicitors are available on-site should parties need legal advice and any agreement reached by couples can be fast tracked into court to be made legally binding by a judge. The service is free and not means tested.

“It is a complementary service,” confirms Phillimore. “Anyone who comes into Dolphin House over the next year to make an application for guardianship, access, maintenance or custody – anything to do with children – will be invited by court staff to consider the mediation service first.

“They can then come up to the fourth floor and get some information on it. If they think it might suit them, the other party will be invited in to discuss the service too. It is all voluntary.”

People can also self-refer, she says. “They don’t have to be making an application. They can just come into Dolphin House, come up and discuss their situation – and see whether the service might suit them.”

If both parties are open to mediation, an appointment will be made for them to come in and go through their issues with a trained mediator. The mediator, she stresses, is not a judge and will not make any decision.

If at any point a party wants legal advice they can get it in the same building, usually on the same day, from one of the four solicitors empanelled for the new service.

“If the parents can’t come to an agreement in mediation, they still have the option of going to court,” says Phillimore. If rowing parents can avoid the courts, however, the benefits for everyone in the family are huge – particularly for the children.

“All the international research shows that, once parties enter an adversarial court setting, the relationship between them worsens. By definition, solicitors and barristers are working for their client and it becomes about scoring points. The gloves are off.

“In mediation the aim is to help the parties see each other’s point of view and come to an agreement. It’s not about winning.

“Particularly when there are children involved and you are going to have to be in contact with the other person for many years to come, it is far more beneficial if a mutually agreed resolution can be found.”

In the first five months of last year 1,900 applications for guardianship, custody, access or maintenance were made at Dolphin House, all of which were processed through the courts.

The success of the new service will be measured on how many of these are diverted from the courts, and how many are successfully resolved through mediation.

The service has been up and running since March 21st. Phillimore says about 15 couples have already approached it for help with their disputes. With more time and publicity, she hopes many more will try mediation before heading for the courts.

“Many people don’t know about mediation,” she says. “They think it’s about getting people back together, when really it’s about helping people break up with as little acrimony as possible – and when there are children, that is more important than ever.”

The service is, so far, only available to couples in Dublin.

The family mediation service at Dolphin House can be contacted at tel: 01-8886131.