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Title of the Paper

Workplace Mediation: An Irish Study

Abstract

This paper presents the results of the first systematic study of workplace mediators in Ireland. It examines the characteristics and features of workplace mediation using a mixed methods study. The research identified, for the first time, the active population of workplace mediators in Ireland. Mediation entered the workplace conflict resolution lexicon from 2002-2004 at the 'macro-level' of State policy; at the 'meso-level' through the Mediators' Institute of Ireland, and at the 'micro-level' of organisations. Findings are based on qualitative data obtained from six focus groups, with 25 participants, seven interviews with internal mediation service coordinators and an officer of the Workplace Relations Commission. Quantitative data were obtained from a survey of 144 workplace mediators. The findings are consistent with the claims of the literature in a number of areas and advances knowledge in the emerging theoretical domain of workplace mediation in a number of ways. It shows that as workplace mediation has developed to address more individual conflict issues inside organisations, the 'three-stage mediation process' identified in in the literature is more commonly a 'six-stage' process in practice. Workplace mediators in Ireland are 'general practitioners', often combining workplace mediation with a number of other professional activities, as well as 'stylistically eclectic' in their practice. Three out of four workplace mediators adopt a short-term focus on process which achieves outcomes primarily relevant to participants in mediation. Only one in four workplace mediators engage in practices that influence long-term organisational outcomes such as changes in working environments or capacity-building in conflict resolution skills.

Introduction

Ireland is a small (70,273km), open, export-oriented economy and was, up to 2008, one of the fastest growing economies in the developed world. Ireland is described as a traditionally voluntarist, classic liberal market economy (LME) that adopted policies of a co-ordinated market economy (CME). In 2008 Ireland experienced fullscale intervention and massive cuts after the global financial crisis (GFC). The Central Statistics Office tells us that, as at 2015, there were 4.7 million in the overall population. For the first quarter of 2017, there were 2,096,400 people in the Irish workforce, and Ireland has been described as an Anglo-American workplace (cia.gov, 2013; Geare et al., 2014; CSO, 2015, 2017).

Ireland was governed by a body of indigenous Celtic laws called Brehon laws for 1,000 years rather than Roman law which dominated most of Western Europe. A substantial part of the law was aimed at early and predictable resolution of disputes. The system reflected societal efforts to avoid disputes as the procedural rules demonstrated a respect for open and fair process. Alternative Dispute Resolution (ADR) in Ireland can also be traced back to the seventeenth century as, in 1699, arbitration in Ireland was put on a legislative footing with the introduction of William III's "An Act for determining Differences by Arbitration." This Act governed arbitration in Ireland for almost 250 years, until its amendment in 1948. In the workplace conflict resolution system in Ireland internal (inside organisations) and external processes (outside organisations) have evolved to resolve conflicts and disputes (Law Reform Commission, 2008; Duggan, 2013; Gavin and Joyce, 2013).

Ireland has a history of mediation evolution during the 20th century. Peace Centres were established in the north of Ireland in response to the Irish "troubles" in 1965 and the Glencree Peace and Reconciliation Centre, Wicklow in 1974 (Corrymeela, 2013; Glencree, 2013). In 1986 the Mediation Network for Northern Ireland was established (Liebmann, 2008; Mediation Northern Ireland, 2013). In addition to the work of Glencree, mediation was also evolving elsewhere in the Republic of Ireland. In 1986 the Family Mediation Service was established. The State enacted the

Judicial Separation and Family Law Reform Act in 1989 which was Ireland's first statutory requirement to consider mediation before going to court (Plunkett, 1988; Teague et al., 2015). The first community mediation service was established in southern Ireland in 1990; the Tallaght Mediation Service. Since that time community services have been established in various parts of Ireland (Corry, 2011; Ballymun Community Law Centre, 2014). From 1998, restorative practices began to be incorporated into the justice system in Ireland. Restorative practice has developed in schools, workplaces, faith communities, and deeply-entrenched political violence with the objective of building positive relationships and a sense of community (Umbreit & Armor, 2010; Casey et al., 2013).

The Mediators' Institute of Ireland (MII) was established in 1992 and acts as a selfregulating body for the profession. This organisation of mediators was primarily an affiliation of family and community mediators until the early part of the 2000s. In the early 2000s, a 'grand-parenting' system was used by the professional cohort of mainly family mediators to develop workplace mediators who had undertaken training programmes in University College Dublin. The MII introduced its 60 hour training programme with skills-based competency test in 2007. In 2016, there were 35 accredited mediation training programmes running in Ireland. Since 2007, all members of the MII have also been bound by a Code of Ethics & Practice.

The practice of commercial mediation in Ireland has grown since the early part of the 21st century. The Irish Commercial Mediators' Association (ICMA) definition of mediation suggests that commercial mediation in Ireland is practised within a problem solving settlement paradigm. A scan of the membership of the ICMA website, which is the major association for commercial mediators in Ireland, shows that commercial mediation in Ireland is mainly practised by those in the legal profession. The Irish Private Residential Tenancies Board (PRTB) was established in 2004 providing a mediation service for tenants and landlords in dispute. The Financial Services and Pensions Ombudsman has begun to use mediation extensively since 2017.

The Organisational and Workplace sector is one of a number of sectors that exist in the MII. From 2007-2013, there was a growth in overall membership from 169 to 777.

Members of the MII with an interest in workplace and organisation mediation increased from 48 per cent to 70 per cent (541) in those six years. Members of the MII include mediators available for work (self-employed or employed in businesses) and organisations with internal mediation services.

There is an understanding of the general system of workplace conflict and dispute resolution in Ireland, partnership and changes in the statutory agency framework specifically the change from the Labour Relations Commission (LRC) to the Workplace Relations Commission (WRC) which includes the Equality Tribunal. What has been lacking, however, is a clear picture of the overall field of workplace mediation and the role played by workplace mediators in the Republic of Ireland. From my own experience as a mediation practitioner it is evident that the field of workplace mediation has developed since its first mention in codes of practice issued by the Health and Safety Authority, Labour Relations Commission and Equality Authority in 2002. Many Irish workplaces now appear to incorporate the option of mediation in their policies and procedures for addressing workplace disputes. This study builds on previous international research by Goldberg (2005); Van Gramberg (2002-2008); Saundry & Wibberley (2012); Lipsky et al. (2012); Stipanowich & Lamare (2013); Bollen & Euwena (2013); and Bollen et al (2016). Some research in Ireland indicates the use of external or internal experts in relation to individual and group conflict management although it does not examine the extent to which mediation is used or the nature of workplace mediation (Teague, 2006; Teague & Thomas, 2008; Roche & Teague, 2011; Teague & Doherty, 2011; Teague, Roche & Hann, 2012; Hann & Teague, 2012; Roche & Teague, 2012; MII, 2013; Teague et al., 2015; Curran et al, 2016).

The Research Study

Review of the literature identified two theoretical models which have been proposed in relation to mediation generally. One is Herrman's Comprehensive Model (2006) which identified factors such as: institutional context, dispute characteristics, and disputants; procedural factors and readiness; and disputant beliefs and attitudes as well as resolution. The second theoretical model is Wall & Dunne's Mediation Paradigm (2012) which expanded factors to be considered in relation to mediation

to include: contextual factors such as conflict type, country, culture and mediation institutions; mediator and disputant goals and behaviours; and outcomes for disputants, third parties and mediators. What is important to note is that each of these models adopts the classical social sciences framework of antecedents, processes and outcomes. In recent times, Avgar has also related an earlier industrial relations model to conflict and conflict management (Herrman et al., 2006; Wall & Dunne, 2012; Kochan et al. in Avgar, 2017:45)

The goal of the study was to better understand the features and characteristics of the organisational field of workplace mediation in Ireland. An organisational field is defined as "those organizations that, in the aggregate, constitute a recognized area of institutional life: key suppliers, resource and product consumers, regulatory agencies, and other organizations that produce similar services or products" including shared cognitive or normative frameworks and a common regulatory system (DiMaggio and Powell, 1983:143). There has been limited work that systematically tracks the features of the sub system of workplace mediation as a distinct field (see Figure 1 below). This is consistent with the recently articulated need to integrate knowledge and empirical findings on workplace conflict and its management (Scott, 1994; Scott, 2001; Dacin, Goodstein and Scott, 2002; Suddaby, Greenwood and Hinings, 2002).

Figure 1: Sub system of Workplace Mediation

Workplace mediation is defined as (Kenny, 2014):

> a confidential and voluntary process whereby an independent mediator assists two or more individuals, work groups, or employers and trade unions anticipating or experiencing conflict or a dispute with a view to reaching a mutually acceptable agreement.

Workplace mediation is a process of alternative dispute resolution (ADR) and a part of organizational conflict management systems (CMS) which have developed to resolve and manage conflicts which arise in organizations. Although mediation has existed and been practiced in a variety of forms for centuries, and in workplace disputes in the US since the 1930s academic and policy interest in its use is more recent and largely stems from dissatisfaction with conventional rights-based disputes procedures (Herrman et al., 2006). The increased interest in the use of mediation in the US and UK is described in the literature as driven by organizations searching for more efficient and effective ways to resolve workplace conflict. Mediation is organized and conducted relatively quickly with less management time taken up (Bingham and Pitts, 2002) while offering financial savings (Kressel, 2006; Goldberg, 2005) with costs estimated by some as five times lower than lengthy conventional procedures (Saundry et al., 2013).

Workplace mediation is an emerging field in the conflict and dispute system. It offers opportunities for connection and interaction between people in workplaces and those who have left or are leaving workplaces in the satisfactory understanding of each perspective and experience in a conflict or dispute. The changing nature of work and workplaces is increasing in its complexity which means that relationships, interests and rights will be challenged in ways we have not envisaged yet. Consequently, workplace mediation is garnering increased academic and practitioner attention as a method of engaging with conflict directly with those who have the most to gain from, and the most power and control over, its resolution.

The study started with the proposition that the field of workplace mediation has evolved rapidly over the past two decades (Brubaker et al, 2014). A comprehensive study of conflict management innovations in Ireland presents mediation as 'an increasingly popular part of a systems approach' to managing workplace disputes (2015:111) and indicates:

> *… a picture of mediation as a mechanism of which the operation and efficacy depend upon the context in which it is located. Senior managers may use it as a central part of HR strategy, they may see it as a somewhat peripheral element of an overall strategy that relies primarily upon strong management- union linkages, or they may envisage it as an unformed, yet to be clarified, set of possibilities and potentials* (Teague et al, 2015:112).

The research study used a combination of both qualitative and quantitative methods to understand workplace mediation at macro, meso and micro levels (see Figure 2 below). Research decisions were in part formed by the author's professional and academic interest to have greater clarity on the profession and practice of workplace mediation and by the initial exploration of the literature (Jackson, 2003; Yin, 2009). The mixed methods design incorporated focus groups and interviews with a number of practicing mediators, and then a survey of the wider community of workplace mediators. Documentary sources were explored to allow a more contextually rich understanding of the field of workplace mediation in Ireland. The findings were integrated to allow for a broader and deeper understanding of workplace mediation as it is now in Ireland.

Figure 2: Integration of the Field of Workplace Mediation

Macro
State
(Country)

Meso
Workplace Mediators
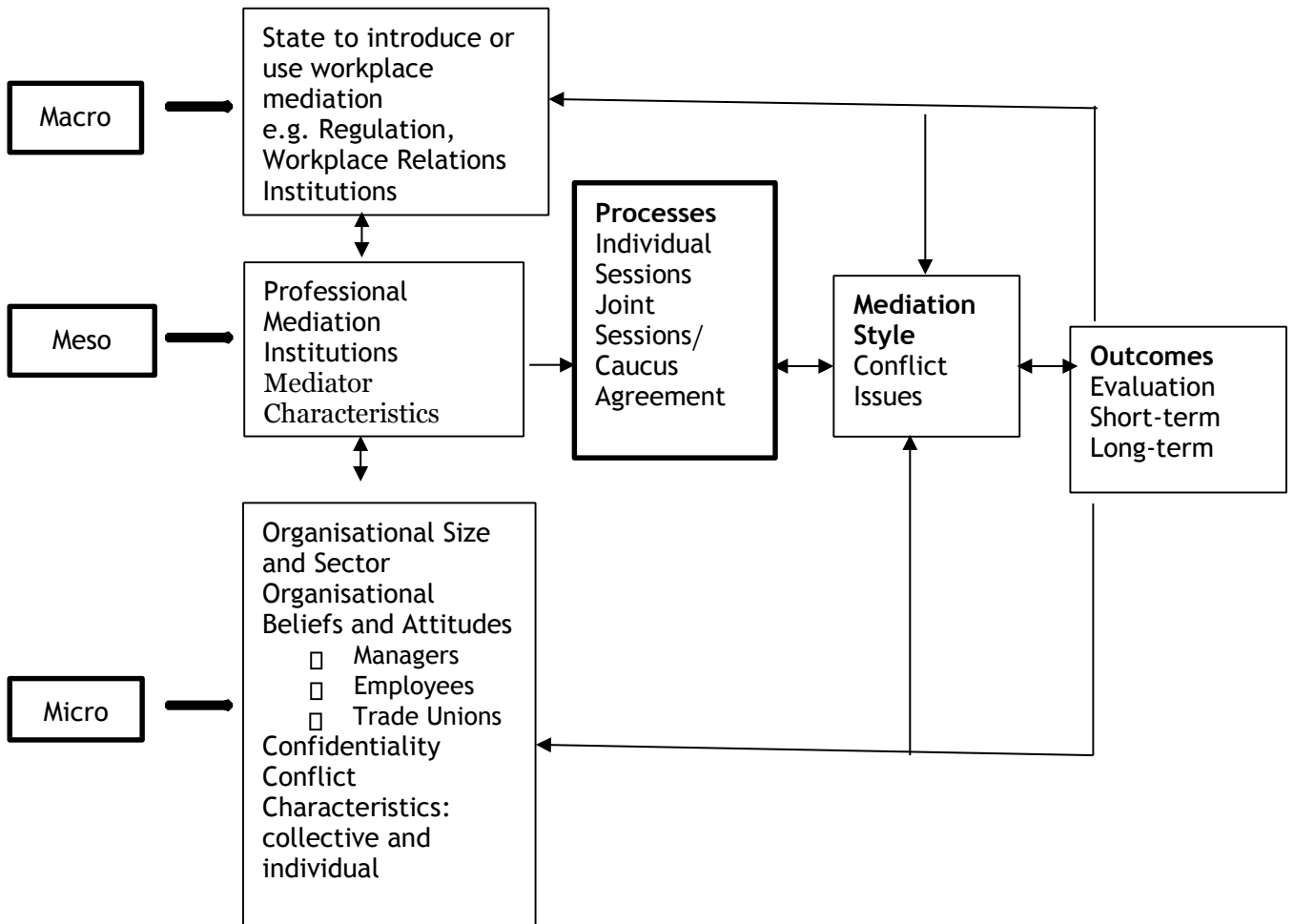
Micro
Organisations and Workplaces
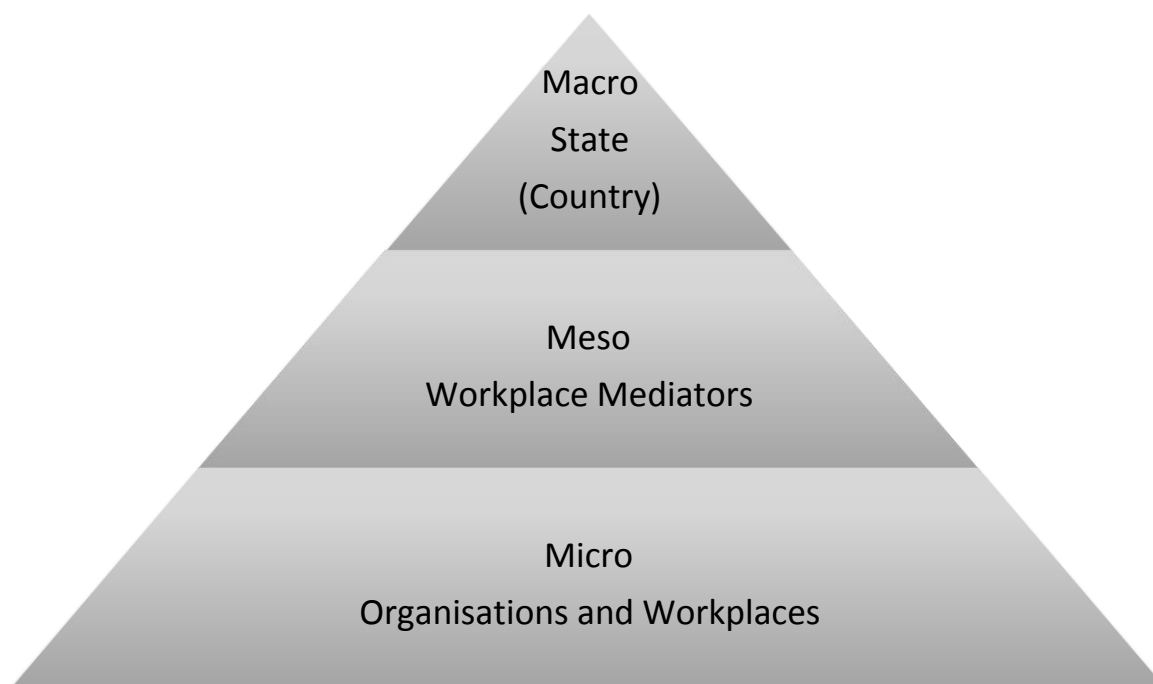
I followed previous practice (Baker & Ross, 1994) that the mediator is the appropriate level of analysis in the first instance for understanding the interplay between mediation practice and context. My role in mediation also enabled the accessing of survey participants through social networks (Cycyota & Harrison, 2006). The research sample was representative of gender, age, qualifications, sector professional membership of different organisations (Dipboye & Flanagan 1979 in Highhouse & Gillespie 2009:253).

The Findings

Building on a limited number of empirical studies the research focused on tracing the interconnectedness of antecedents, processes and outcomes. This study is one of the first to explore workplace mediation through developing a theoretical framework based on the classical social sciences model of antecedents, processes and outcomes, with reference to Herrman et al.'s (2006) Comprehensive Model for mediation and Wall & Dunne's (2012) 'Mediation Paradigm' and makes important findings. The findings are explored using a synthesised schematic developed for this study (see Figure 3 below).

Figure 3: Synthesised Schematic of Workplace Mediation

The antecedent conditions of the State (macro), mediators (meso) and organisations (micro) are explored to understand the degree of interdependency and mutual adaptation that took place for workplace mediation to develop (Porter, 2006:1).

The Macro Level: The State

At the macro-level, informal resolution through mediation has been promoted by the State, in Codes of Practice since 2002, with the espoused ideology of achieving harmonious work environments. The macro-level discourse was preceded by the use of mediation by the Equality Authority in 2001. In 2004, the Equality Authority formally set up a mediation service followed, in 2005, by the Labour Relations Commission (LRC) mediation service. The State formally promoted mediation with the enactment of the Workplace Relations Act 2015. This legislation integrated State provision of workplace mediation as a voluntary option within the Workplace Relations Commission (WRC) to deal with conflicts of rights, interests and relationships. The evidence is that workplace mediation provided by the State in Ireland is free to participants, with the mediators being State employees. Participation is voluntary, there is full confidentiality afforded to participants and agreements reached for pre-adjudication mediation are legally binding. Codes of practice and regulation can, therefore, be seen to have played a part in the use of workplace mediation. The voluntarist approach has left it entirely up to participants to mediation to decide if mediation is to be their conflict resolution process of choice. Since the Workplace Relations Commission came into operation in October 2015, mediation by telephone and rights-based pre-adjudication mediation have been better resourced than mediation of workplace conflicts of interest and relationship which continue to be offered based on the availability of mediators/conciliators and constrained by a lack of budget.

The Meso Level: The Mediators

The evolution of workplace mediation in Ireland was informed by mediators in contact with other mediators in the US from the 1990s. The Mediators' Institute of Ireland came into being in 1992. In 1999, the Centre for Dispute Resolution, with participation of members of the MII, hosted a conference which brought together IPD (now CIPD), ICTU and a US mediator. This was influenced by the role of mediators who were professionally connected and Council members of the MII at that time. The USPS REDRESS system can be inferred to have influenced Eircom/Eir at the meso level to introduce mediation in 1999. The fact that the person driving Eircom/Eir to introduce workplace mediation was the Diversity and Equality manager sits in alignment with the macro development (equality legislation, equality codes of practice and the Equality Authority). The appearance of mediation in equality codes of practice in the Republic of Ireland from 2002 was interrelated with and interdependent on the operationalisation of mediation services by trained mediators within initially Eircom/Eir from 1998/9, the Equality Authority from 2001, the external marketplace from 2003, and the Labour Relations Commission (LRC) from 2006.

I identified that there are a variety of workplace mediators in Ireland, e.g. staff of the Workplace Relations Commission, internal mediation services in organisations, external mediators offering services to organisations and facilitators of organisational development through collective bargaining interventions and change programmes. There is the professional association mentioned earlier, the MII. There is also an anecdotal increase in the use of workplace mediation by a wide variety of organisations, and a strong training role played by educational institutions (e.g. Maynooth University, Trinity College Dublin and the National College of Ireland) and training organisations. Ireland, therefore, offered an ideal research opportunity to understand the institutional and regulatory (macro), mediator (meso) and workplace or organisation (micro) influences on the features of workplace mediation during the 21st century from the experience of workplace mediators.

The organisational field of workplace mediation comprises of four distinct groups of mediators (see Figure 4 below). There are facilitators who work with employers and

trade unions on collective issues. Internal mediators were trained in Eircom/Eir and went on to promotions and other roles so that the system adapted to delivery through external mediators from 2003. The MII offered a 'grand-parenting' process where mediators experienced in family mediation mentored newly trained external mediators in workplace mediation from 2003. In 2006, the Labour Relations Commission (LRC) offered mediation by existing staff who were also conciliators of collective issues. The Health Service (HSE NE and HCSC) initially selected two different paths of a dedicated workplace mediator and a volunteer panel of trained mediators in 2009. Despite evidence of successful integration of mediation, the individual mediator role in the HSE no longer exists in 2018. Other internal services were experiencing various levels of success at the micro-level in terms of increasing use of mediation and integration at the meso-level through dedicated coordinator roles, renewal and training of mediators and involvement in management training programmes. Again, since 2009, there have been increasing numbers of external workplace mediators trained and beginning to practice. There is evidence of increasing use of workplace mediation particularly for those mediators with the longest experience. Ireland's more recent development of workplace mediation at State level has run concurrent with developments in Great Britain, and the Workplace Relations Act 2015 brought the provision of State workplace mediation under the direction of one organisation.

Figure 4: Four Mediator Groups in the field of Workplace Mediation

The cultural norm, in terms of who becomes or remains a mediator in Ireland, are those who are older, experienced in work and who have a general management or HR/IR background. Over 90 per cent of workplace mediators in Ireland are members of a professional association, and 70 per cent of those are members of the Mediators' Institute of Ireland (MII) indicating a strong commitment to accreditation and continuing professional development by the majority of mediators. Some mediators have experience prior to 1998, others from 2001/2002 but the most significant number of mediators began their practice from 2009 onwards. Coordinators of internal mediation services can be seen to have had an influence on the introduction and use of mediation in their organisations. Workplace mediation is predominantly a part-time activity for all four mediator groups in Ireland. For external mediators this means they have a broader portfolio of mediation work or conflict engagement work. Increased mediation practice is most obvious where mediators have over 10 years' experience in the field.
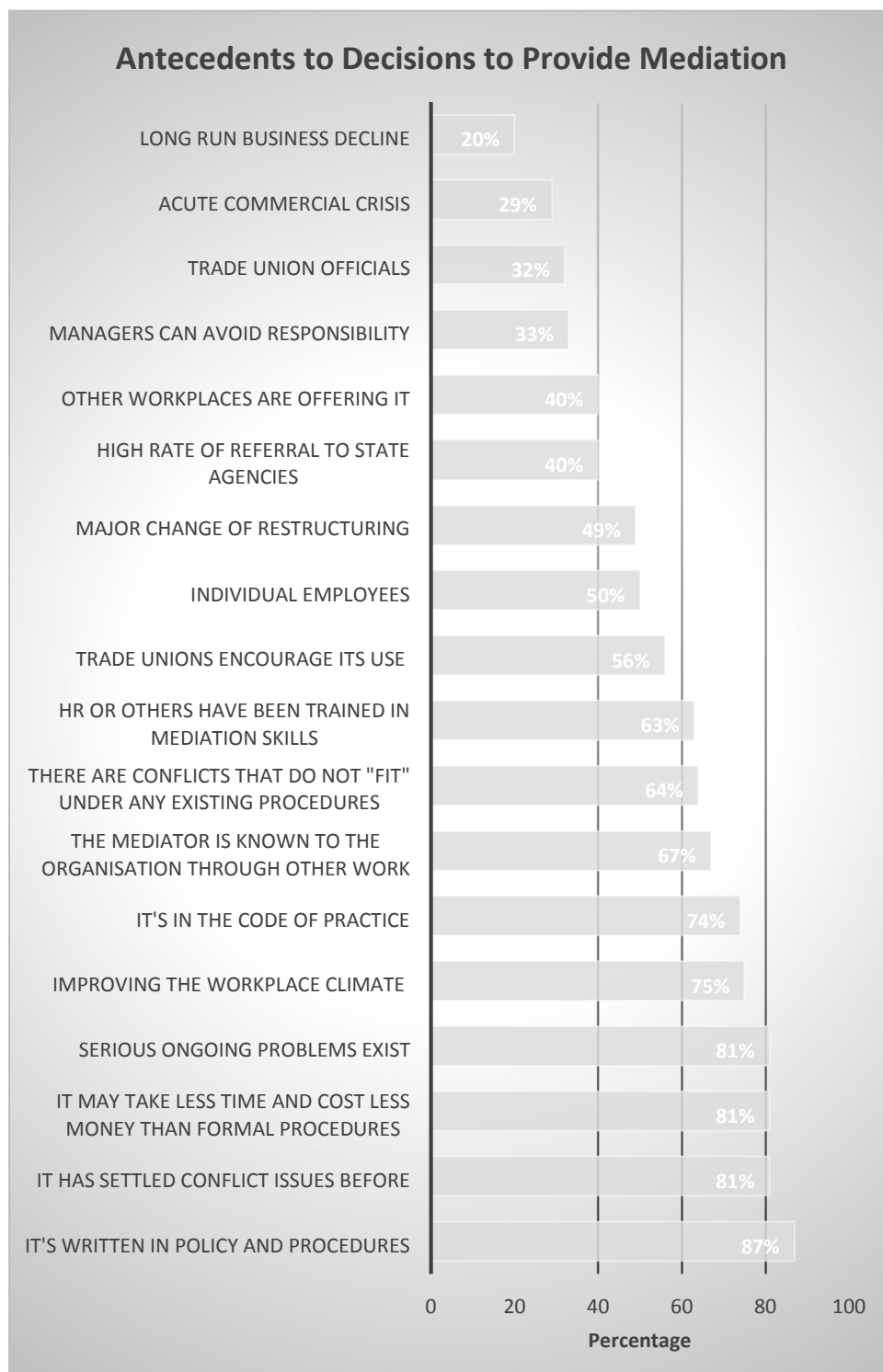
Professionalisation holds the greatest interest to those entering the field to enhance credibility rather than those in the WRC or those with labour relations experience

prior to 1998. Fewer mediators in the WRC have membership of a professional mediation association, low membership of the MII and a lower level of professional training in mediation. There is less experience and practice in mediation with employers and trade unions – over a third of the mediators who responded to the survey. The 54 mediators, who included mediators across three of the groups i.e. State, external and collective facilitators, who work with employers and trade unions were more likely also to practice commercial mediation (25 per cent) than other mediators and, almost a quarter of these mediators (23 per cent), do not have accredited training in mediation or membership of a professional mediation association.

The Micro Level: Organisations

While at the macro level, the State was encouraging mediation as a process for resolving workplace conflict and disputes with a view to achieving harmonious work environments, the emphasis at the micro level of the organisational field of workplace mediation was the introduction of organisation policies on resolving conflicts and disputes through reaching consensus and preserving organisational reputation (see Figure 5 below). One particularly important policy in Ireland, in relation to the use of workplace mediation, has been 'Dignity at Work'. Use of external mediators has increased particularly as mediation has become a part of these policies. Internal mediation services within organisations were introduced, either by Equality managers or HR managers, from as early as 1998/9 although more commonly from 2009 onwards. A number of these internal mediation services operate in organisations where the State is the employer. Mediation is being used most frequently in conflicts described as bullying, poor communications, grievances, lack of respect, harassment and discrimination, and lack of cooperation. Mediation is seen as faster and, therefore, less costly than investigation or adjudication processes.

Figure 5: Mediators' Views on Antecedents to Organisational Decisions to Provide Mediation

Antecedents to Decisions to Provide Mediation

Antecedent	Percentage
LONG RUN BUSINESS DECLINE	20%
ACUTE COMMERCIAL CRISIS	29%
TRADE UNION OFFICIALS	32%
MANAGERS CAN AVOID RESPONSIBILITY	33%
OTHER WORKPLACES ARE OFFERING IT	40%
HIGH RATE OF REFERRAL TO STATE AGENCIES	40%
MAJOR CHANGE OF RESTRUCTURING	49%
INDIVIDUAL EMPLOYEES	50%
TRADE UNIONS ENCOURAGE ITS USE	56%
HR OR OTHERS HAVE BEEN TRAINED IN MEDIATION SKILLS	63%
THERE ARE CONFLICTS THAT DO NOT "FIT" UNDER ANY EXISTING PROCEDURES	64%
THE MEDIATOR IS KNOWN TO THE ORGANISATION THROUGH OTHER WORK	67%
IT'S IN THE CODE OF PRACTICE	74%
IMPROVING THE WORKPLACE CLIMATE	75%
SERIOUS ONGOING PROBLEMS EXIST	81%
IT MAY TAKE LESS TIME AND COST LESS MONEY THAN FORMAL PROCEDURES	81%
IT HAS SETTLED CONFLICT ISSUES BEFORE	81%
IT'S WRITTEN IN POLICY AND PROCEDURES	87%

The patterns of practice of mediators indicates that Ireland has a similar pattern of antecedents to workplace mediation use as other countries in that large public or

indigenous private sector organisations use mediation more. Less use of mediation is evidenced in SMEs and the foreign private sector. The lowest use of mediation appears to be in technology and sanitation industries, whether these are private indigenous firms or foreign private sector firms. Consistent with these findings, organisations where mediation is taking place are mainly unionised. In Ireland there is also use of mediation in the voluntary sector and in what could be viewed as workplace-related contexts such as religious communities, school boards of management and other boards of management.

The micro level discourse within organisations about workplace mediation, even with some indication of change, is that mediation is used as a last resort when an organisation is under acute pressure and potentially desperate. Even though the cogeneration of understanding of what mediation is, through integration into induction, training programmes and briefings has played a part in the introduction of mediation in some organisations, only half of the community of mediators are aware of organisations communicating about mediation proactively, and only a fifth are aware of organisations providing mandatory information sessions on mediation. External mediators and coordinators of internal mediation services build social networks of relationships with and within organisations to support referral to mediation, primarily through HR contacts/connections.

To fully understand what is happening in the field of workplace mediation, we also need to understand the styles, processes and outcomes associated with it.

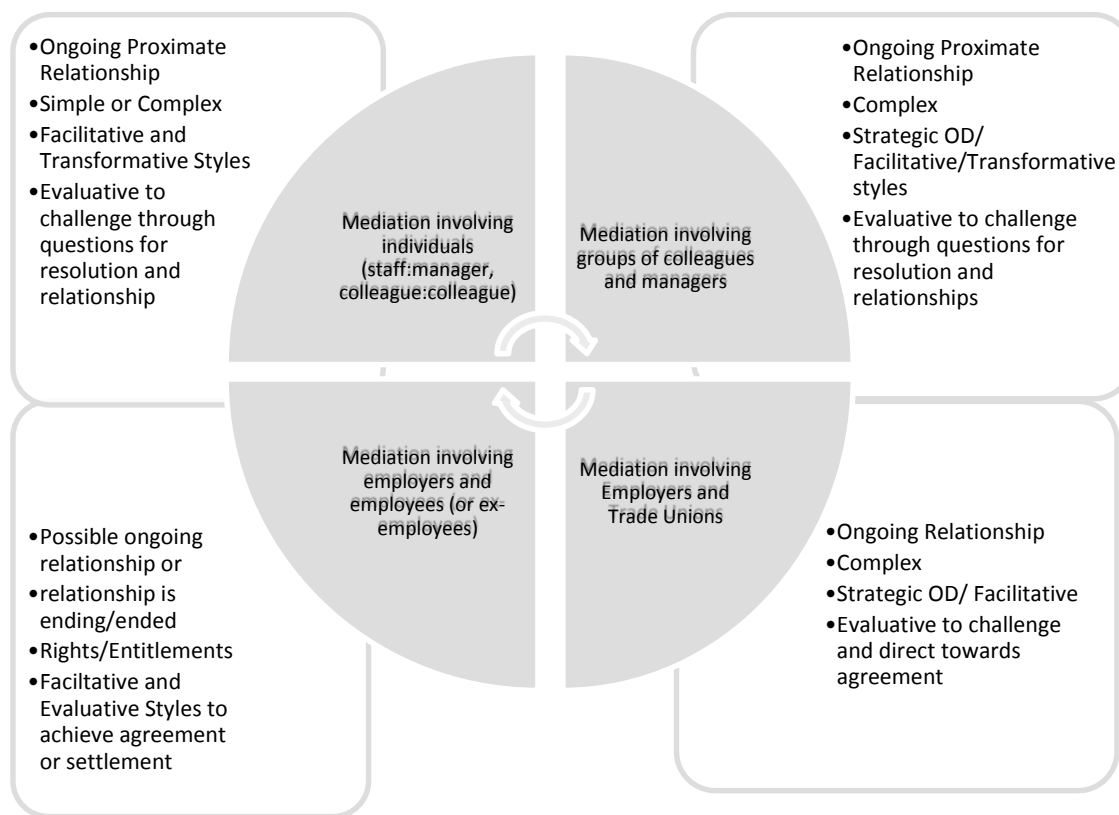Process and Styles of Workplace Mediation in Ireland

As shown earlier in Figure 3, the process and style of workplace mediation relates to the direct activity of mediators. It became apparent in integrating the findings from documentary sources, interviews, focus groups and the survey questionnaire that the goals of each specific mediation defined the process used by mediator (see Figure 6 below). Styles and conflict issues presented a situational understanding and styles, issues, goals and process are inextricably intertwined.

Figure 6: The Integrated Cycle to Deliver Workplace Mediation Outcomes
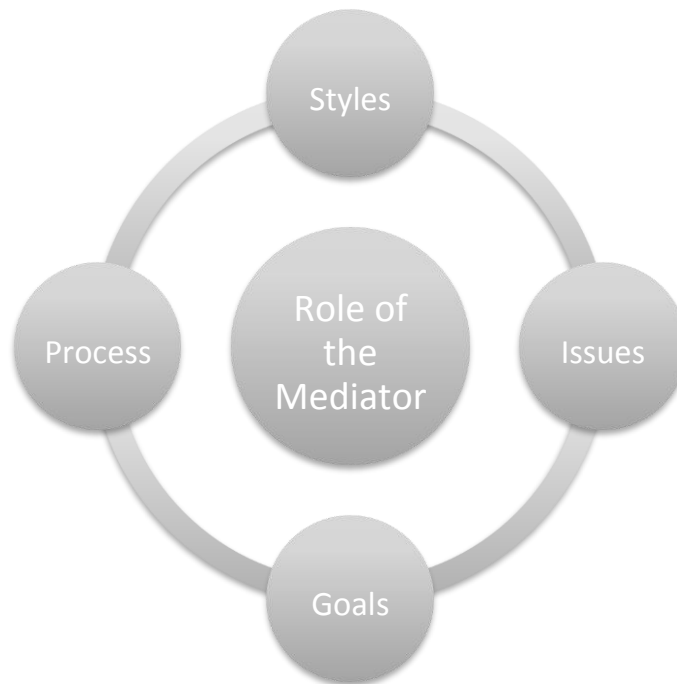
The goal of efficiency/speed primarily relevant to mediators' goals in having organisations choose mediation over other forms of conflict intervention and to mediators promoting the benefits of mediation. Mediators usually begin with the primary goal of gaining agreement between participants in mediation and, consciously and unconsciously, select additional goals based upon their evaluation of the situation (see Figure 7 below) and the participants' behaviours. Influenced by these goals, workplace mediators choose the techniques or strategies they will employ.

Figure 7: A Situational Approach to Workplace Mediation

- •Ongoing Proximate Relationship
- •Simple or Complex
- •Facilitative and Transformative Styles
- •Evaluative to challenge through questions for resolution and relationship

Mediation involving individuals (staff:manager, colleague:colleague)

Mediation involving groups of colleagues and managers

- •Ongoing Proximate Relationship
- •Complex
- •Strategic OD/ Facilitative/Transformative styles
- •Evaluative to challenge through questions for resolution and relationships

Mediation involving employers and employees (or ex-employees)

Mediation involving Employers and Trade Unions

- •Possible ongoing relationship or
- •relationship is ending/ended
- •Rights/Entitlements
- •Facilitative and Evaluative Styles to achieve agreement or settlement

- •Ongoing Relationship
- •Complex
- •Strategic OD/ Facilitative
- •Evaluative to challenge and direct towards agreement

Workplace mediation in Ireland remains voluntary and confidential, with mediators seeing themselves acting as gatekeepers to ensure this reality once participants enter the mediation process. Voluntary participation and confidentiality are especially explored through pre-mediation or individual meetings and signed agreements to mediate. Any feedback to the organization is agreed with participants. The presence of representatives at workplace mediation, although not the norm, is facilitated when requested by participants.

The six stage process of workplace mediation (see Figure 8 below) has been a specific finding in terms of how mediation works in practice for many workplace mediators. This research has given insight into the evolution of 'bridges' that are built by around 1 in 4 workplace mediators with organisations to allow information on outcomes of mediation to 'cascade back to the organisation' (Zariski, 2010:224). The first stage is the engagement with the organisation when mediation is initiated which builds

trust in the mediator and the process of mediation. The second stage is pre-mediation or individual meetings between the mediator and individual potential participants in mediation which builds trust at this level in the mediator and the process of mediation. At the third stage, more time is usually spent in joint meetings than in caucus or individual meetings as the mediator guides the participants towards finding their own solution by getting them to explore different and new ways of thinking and acting. The fourth stage most often concludes with a written agreement. At the fifth stage, one third of mediators – mainly external mediators – hold, at least, one review meeting. The sixth stage involves feedback to the organisation by the participants and/or mediator. The first and sixth stages of the workplace mediation process serve as 'bridges' into workplace mediation and 'bridges' back to the organisation or workplace.

Figure 8: Six Stages of Workplace Mediation
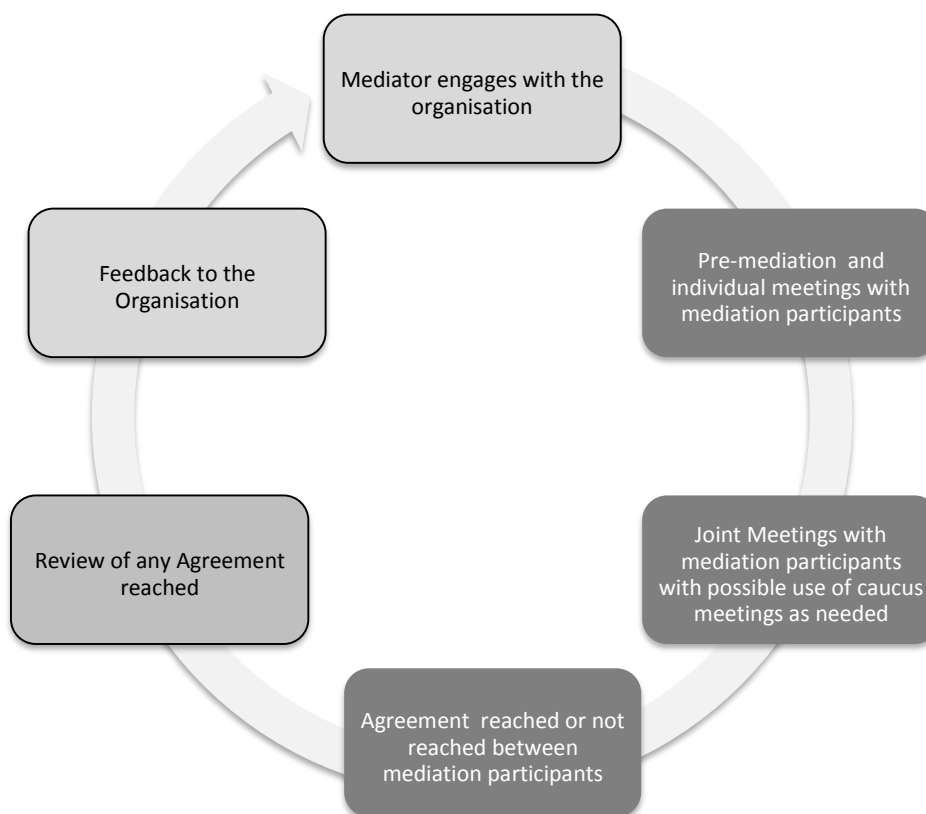
Differences in process are more evident for mediators working with employers and trade unions and WRC mediators. The process for those mediators working with employers and trade unions would involve engagement from Stage 2 through to Stage 4 but with little need for feedback or necessarily review at Stage 5. The WRC mediators would primarily engage from Stage 2 or even Stage 3, with no need for engagement with the organisation separately as they are a participant in the mediation process, and limited use of pre-mediation meetings. Again, for WRC mediators, there is no feedback element required to the organisation and they do not offer review of agreements reached. The more short-term focus of many workplace mediators is evidenced by the greater emphasis on what they do before, during and immediately after the mediation reaches agreement or settlement but less on longer term elements of the process such as review. Providing feedback to organisations at the end of mediation and using review processes is undertaken by only a small proportion of mediators.

In Ireland, in the 21st century, stylistic eclecticism is the norm in relation to workplace mediation, and mediators are more like general practitioners then specialists in their approach. The facilitative style is most common with some use of the transformative style when the focus is on improving working relationships. The cluster analysis did not show a difference between the mediator groups in respect of the adoption of distinct different styles, because all mediators identify themselves as stylistically eclectic. It is identifiable through the responses to the open questions in the survey that there is more use, though not exclusive use, of evaluative and, on occasion, directive styles, among mediators who also conciliate or mediate between employers and trade unions, or mediate rights-based grievances. Some of this group also adopt a strategic style when working with conflict arising from change, and its complexities, in organisations. Stylistic eclecticism can be attributed to the training undertaken by mediators, the role they have, their experience and the specific mediation issues or situations being mediated. The 70 per cent of mediators who are members of the MII are potentially more likely to be exposed to information about and techniques used in mediation in areas other than workplace, a broader range of national and international approaches to mediation through their accredited training, conference attendance, membership of MII Sharing and Learning groups and supervision.
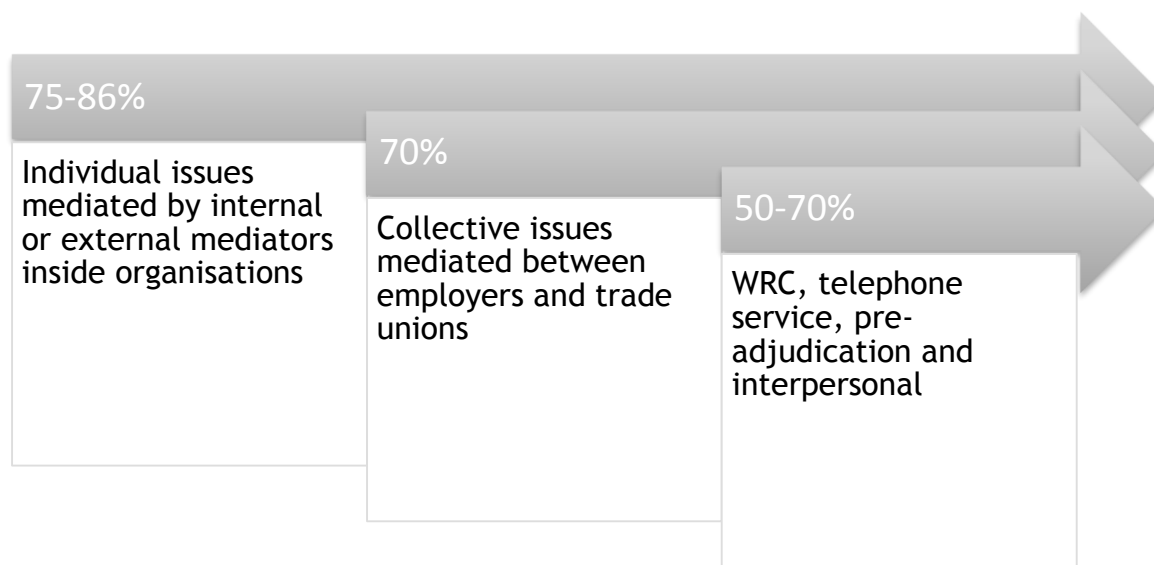
The overall range of issues with which workplace mediators engage is broad. The types of issues mediated are somewhat different depending on whether mediation is happening 'inside' or 'outside' of organisations. Conflicts of rights are primarily the function of the WRC mediation services, although not exclusively, with a view to social justice, restitution and reducing discrimination. Internal mediation services and external mediators mediate cases of alleged bullying, harassment, and other situations where formal procedures could be used. The findings from part of the research help in conceptualising how mediators adapt their style to different situations.

The impact of workplace mediation is measured on the outcomes achieved. Overall the area of outcomes is less well developed in Ireland due to the absence of rigorous and consistent evaluation processes at either State or organisational levels.

Outcomes

What is known about resolution rates for workplace mediation in Ireland is from the 40 per cent of workplace mediators who do any form of even basic recording of resolution rates (see Figure 9 below). Resolution rates range from a low of 50 percent for the WRC Early Resolution Service to 63 per cent for the WRC pre-adjudication or rights mediations through to 70 per cent for interpersonal issues. Some internal mediation services also record resolution rates which provided evidence for this research of resolution rates in and around 85 per cent. External mediators are the least likely to have formal recording of resolution rates. A significant finding though is that, in Ireland, there is little or no systematic evaluation of the experience of participants in workplace mediation. Mediators in Ireland seem to derive satisfaction from the short- term outcome of reaching resolution in mediation, and seem less interested with the systematic recording or reporting of the experience of participants with workplace mediation.

Figure 9: Rates of Resolution across the Field of Workplace Mediation

75-86%

Individual issues mediated by internal or external mediators inside organisations

70%

Collective issues mediated between employers and trade unions

50-70%

WRC, telephone service, pre-adjudication and interpersonal

Medium-term outcomes reported were saving money for organisations, sustainability of agreements and increased referral to mediation. HR managers and line managers can, on occasion, be interested in hearing feedback from mediators so that they can learn lessons to avoid similar conflict in the future. Just over a third of workplace mediators in Ireland have received feedback from organisations or participants on the sustainability of mediation through review meetings or through text, email or telephone contact directly with the participants in the mediation between three and 10 months after the mediation concludes to check if the situation has improved for them.

The extent to which workplace mediation affects the wider management of conflict in organisations is limited. Where it happens, it is through the interactions of about one third of workplace mediators as part of the feedback stage in the six stage mediation process. Long-term outcomes were specifically identified as an improved work environment, improved organisational procedures, processes and employee relations, and influencing management training and development. The WRC mediators hand any longer term organisational development work to colleagues in the Advisory Service. The impact of internal mediation services in terms of indirect 'upstream' effects is found to come through the impact on line managers of coordinators participating in the design and delivery of management training and

development. External workplace mediators have identified themselves as having a broader conflict engagement portfolio in working with organisations in terms of training and coaching. The evidence is that only a quarter of workplace mediators have knowledge of the medium/longer term sustainability of agreements reached and, therefore, the effects on the wider management of conflict (see Figure 10). This quarter are more likely to offer a range of 'tools in the toolkit' in managing conflict; make proposals to avoid a recurrence of incidents; turn a request for an investigation of a grievance to an attempt to mediate; and seek to persuade organisations to change the manner in which conflict is handled internally.
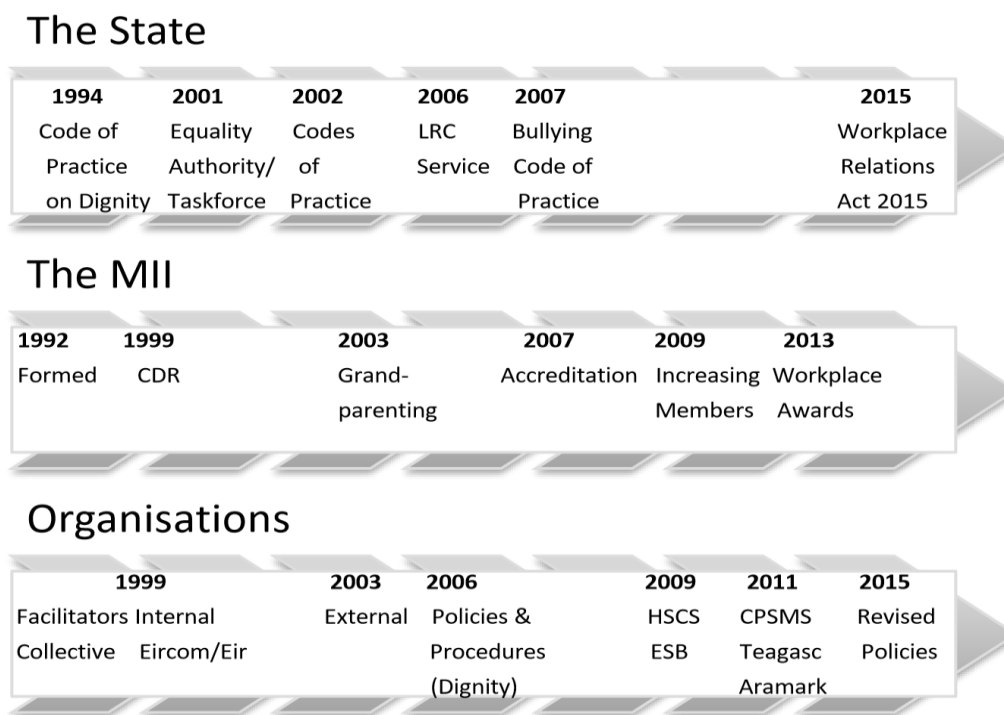
Figure 10: Short and Long Term Focus of Mediators

Approximately three quarters of mediators focus exclusively on the short-term process of mediation (Stages 1-4)

Approximately a quarter of mediators focus on the long-term process of mediation (Stages 1-6)

Evolution of The Organisational Field of Workplace Mediation

Based on the findings set out above, the co-evolution (Porter, 2006:1) of the organisational field of workplace mediation in Ireland is illustrated in Figure 11. At the macro-level this happened through public policy support and legislation, at the meso-level through the MII and at the micro-level through the development of organisational policies. The State, the MII and organisations were promoting mediation simultaneously.

Figure 11: Co-evolution of Macro, Meso and Micro-levels of the Field of Workplace Mediation

The State

1994	2001	2002	2006	2007		2015
Code of Practice on Dignity	Equality Authority/ Taskforce	Codes of Practice	LRC Service	Bullying Code of Practice		Workplace Relations Act 2015

The MII

1992	1999		2003		2007	2009	2013
Formed	CDR		Grand-parenting		Accreditation	Increasing Members	Workplace Awards

Organisations

	1999		2003	2006		2009	2011	2015
Facilitators Collective	Internal Eircom/Eir		External	Policies & Procedures (Dignity)		HSCS ESB	CPSMS Teagasc Aramark	Revised Policies

The practice of mediation generally and more widely has taken longer to become part of the conflict resolution culture in Ireland. There are increasing numbers of mediators being trained and no sense that there is high demand for workplace mediation from organisations – for external, internal or WRC mediators. Mediators with increasing experience of doing mediation more regularly have been in practice for longer. Successful outcomes to conflict through mediation have led to more referrals to mediators. This is evidenced by the increasing use of mediation in five of the six organisations who have internal mediation services and more mediation practice for experienced workplace mediators all of which is consistent with the patterns seen for the Equality Authority and LRC prior to 2015 for equality issues and individual employment rights. There are variations in the style and process of mediation dependent on the issues and nature of the future relationships between participants.

A specific gap is the short-term nature of the mediation process, as reported, with two thirds of workplace mediators not having integrated the longer term review of mediation agreements into their process. Only a quarter of mediators are acting in ways more similar to change agents than purely neutral third parties in supporting wider conflict and dispute resolution design and these are more likely to be mediators with experience of working on change issues with employers and trade unions.

The evolution of workplace mediation in Ireland has come from an intertwining of three distinct strands of activity that have occurred – State, organisations and mediators. Prior to 1998, the dual labour relations system included private sector facilitators of collective issues between employers and trade unions and State conciliators within the Labour Relations Commission. This established field had its norms governing legitimate behaviour (Giddens, 1979) primarily described as facilitation or conciliation. In tracing the evolution of the field of workplace mediation it can be seen that "new institutions are not created from scratch but are built upon older institutions and must replace or push back pre-existing institutional forms" (Holm, 1995:400).

Workplace mediation appeared in the social space (Morrill, 2007:5) provided by the MII from 1992 which offered a process based on the connections of individual mediators with mediators in the US which began the change of moving from conflict and dispute resolution in collective issues to conflict resolution in individual issues. The MII became the interstice as a meso-level location that formed from overlapping resource networks such as family/community mediators, therapy and HR. The evidence from the broader diffusion of mediation in Ireland is that this social space was opened by possible 'moral entrepreneurs' (Becker, 1963: 162) as part of a 'moral crusade' (Gusfield, 1968:56) in favour of peace and dialogue-based approaches to conflict resolution to which others were then converted.

Emerging fields tend to evolve through three conceptually distinct, yet empirically interpenetrating, historical stages (Morrill, 2007). The first or innovation stage was when experimentation happened with mediation to resolve individual conflict issues under equality and dignity at work policies and procedures evolving alongside labour

relations conciliation and facilitation. The label of 'mediation' began to be applied in Ireland from 1999-2006 in Codes of Practice, the State Equality Authority and LRC, organisation policies and 'grand-parenting' of mediators within the MII. Members of the MII facilitated training of the first group of State mediators in Ireland – in the Equality Authority from 2001. Mediators existed then from 2001 in this area and the Employment Equality Act 2004 then named a service that already existed. The LRC piloted mediation in 2005 and offered a service from 2006. This group of mediators were also conciliators.

The second or mobilisation stage occurred from 2007-2012 when accreditation was introduced by the MII and workplace mediation developed a critical mass of supporters (Kim and Bearman, 1997), in terms of external mediators and internal mediation services. The MII increased its membership and more organisation policies referred to mediation as an option. The training of internal mediators and external mediators was increasing from 2009.

The third or structuration stage is where workplace mediators carve out legitimated social spaces for their practices through establishment of professional organisations – organisation and workplace sector within the MII. Symbolic, cultural and normative boundaries appear, such as the MII Workplace Mediation Awards in 2013. There is no evidence of clear institutional mandates for what workplace mediation would or should be and so the MII and mediators filled that space. In the structuration stage, concrete practices are standardised, taken-for-granted norms and structures emerge at the organisational and field levels – which is most apparent in external and internal mediators who are more likely to be members of the MII. Mediators were, therefore, supporting macro- and micro-level development through education and training which then evolved towards a greater professionalising of workplace mediation.

The State antecedents to the workplace mediation 'mosaic' for Ireland indicate that codes of practice, enacting law and establishing social norms through a State mediation service play a role in setting the context although these have been disconnected from, and developed in parallel with, what is happening in

organisations. The State role in the micro-level development of mediation in organisations has been the producing of codes of practice and taskforce reports. The translation into actions of State innovations was dependent on the mobilisation of mediators. The initial group of mediators in the Equality Authority trained in mediation. The mediators in the LRC adapted by adding mediation to their existing conciliation skills set. Measurement by the State of the contribution of workplace mediation to achieving 'harmonious workplace relationships' is not evident beyond maintaining and publishing resolution rates through the work of the WRC.

The evolution of internal mediation services and external mediators was unilaterally influenced by the MII and accredited training offered by members of that organisation in response to more openness in the environment to workplace mediation. Much of the approach taken by workplace mediators, at the micro-level, to integrating mediation into organisational policies and processes has been ad hoc rather than systematic. The evidence from policies and procedures reviewed as part of this research is that a template or 'prescription' has been developed and copied by organisations and mediators working to support organisations in policy development. Mediation then became part of the prescribed options for conflict resolution within policies primarily, it is inferred, through the efforts of HR managers and mediators. Where there are some signs of co-generative development within organisations in Ireland it is where the State is the employer. There has been investment of time between HR, trade unions and trained mediators in agreeing what mediation is and how it would work best can be seen in the HSE and Civil and Public Service, for example. Isomorphism is also apparent in that some internal mediation services have learned from those who set up earlier often through informal contact at MII events.

Some external mediators can be inferred to have taken a role as 'institutional entrepreneurs' in introducing mediation into workplaces. Those who originally set up the MII can be inferred to demonstrate strong indications of being on a 'moral crusade' to influence resolution through dialogue across a range of areas of Irish society, including workplaces. Other external mediators adapted to include mediation in their existing repertoire of facilitation. While other external mediators

can be inferred to have seen a 'business' opportunity and learned the skills of mediation for that reason. These different perspectives exist within the overall community of mediators and may be indicators of where mediators take a longer term view of their role in working with conflict or a shorter term problem-solving focus.

This research has integrated understanding of the micro-processes and field level dynamics of the evolution of workplace mediation by considering how actions at State, mediator and organisation levels interact to shape the diffusion of workplace mediation. The research describes how actions by members of the MII have shaped the majority of the mediator population who participated in this research and the emerging field of workplace mediation. This means that the field of workplace mediation has collectively agreed upon rules, norms, and practices to which 70 per cent of mediators adhere. Workplace mediation is not, however, at the final structuration stage yet in Ireland. Differences have been found between mediation within State services and facilitators/mediators provision of mediation to employers and trade unions, and external and internal mediators working more often with issues arising between employees in organisations. Workplace mediation is not yet fully formed and that requires a further step such as governmental requirements of explicit professional standards (DiMaggio and Powell, 1983). This gives the development of a Mediation Council under the Mediation Act 2017 a crucial role and also raises significant questions about where exactly workplace mediation and workplace mediators who are outside the WRC sit within the Workplace Relations Act 2015 and Mediation Act 2017.

The findings of this research are that the differences between workplace mediators in terms of style and process are situationally driven. However, some of these may also be attributed to 30 per cent of mediators not being members of the MII - mainly experienced facilitators and some members of the WRC. This group are less likely to have participated in more facilitative mediation training programmes and could, therefore, be more likely to carry over inherited evaluative and directive styles of 'deal-maker' and 'orchestrator' styles identified in labour mediation research.

A short-term and, therefore, somewhat myopic focus for many workplace mediators has evolved because workplace mediation is invariably only a proportion of the conflict engagement activity or other work of mediators. There is also a disconnect in the system due to limited opportunities for sharing and learning with and from mediators working as facilitators with employers and trade unions as well as mediators in the WRC. There is little evidence of "systemic thinking" across the whole field of workplace mediators in terms of what the shared vision is for workplace mediation in Ireland, and how to explain the necessary differences in style and process as dependent on the issues and future relationship needs of participants. This is particularly evidenced by the fact that the system 'loop' is not currently closed in terms of having integrated metrics for mediation outcomes to inform decision-making for mediation practitioners, organisations and participants, and the State. This short-term, problem-solving focus, without any objective evidence of the contribution of mediation to harmonious workplace relationships, reaching consensus and organisational reputation, has led to the situation where there are more workplace mediators than mediation use.

Conclusion

This study has provided evidence that will inform mediators and researchers in their understanding of how workplace mediation has evolved to date and in making informed decisions about the future development of the field. Understanding the field requires understanding both its components and the mechanisms of interaction that define how the field of workplace mediation is constructed. This research has involved mapping connections in the organisation field of workplace mediation at multiple levels –the field with its environment on the one hand and among the components or agents on the other.

The classical social sciences framework of antecedents, processes and outcomes was used to organise the discussion of the international research literature. This was developed into a theoretical framework for gathering data about workplace mediation in Ireland, for analysis and presentation of data and discussion of findings. This theoretical framework has made the context and cultural norms, in Ireland, clearer through delivering the first systematic review of workplace mediation which

has been conducted in Ireland. There is no evidence that such a systematic review of workplace mediation as an organisational field has been conducted to date internationally.

In following the theoretical framework, the research established how workplace mediation has evolved in the context of Ireland to become part of the 'way we do things' in relation to conflict and dispute resolution and why it evolved in that way in the Irish context. It has also made the situationally dependent nature of mediator style and process clearer, and the focus on short-term outcomes more apparent. This provides greater clarity on the features and characteristics of current workplace mediation practice. This theoretical framework also provides opportunity for the systematic study of workplace mediation in other countries for comparative purposes – and for the study of mediation more generally so that similarities and differences can be more clearly identified and explored.

In order to undertake this research, the population of workplace mediators in Ireland with actual experience was identified. This is practically useful to the overall understanding of the numbers of mediators in work at this time. Identifying the active population of workplace mediators then enabled the integration of the different groups of mediators into an organisational field which includes State mediators in the WRC, internal mediation services and external mediators – both self-employed and working in businesses. Facilitators and mediators who work with employers and trade unions have also been integrated into the field. This active population of workplace mediators was not known prior to this research being undertaken.

Workplace mediators in Ireland adopt a 'general practice' and 'general practitioner' approach. The evolution of mediation use, from predominantly employer and trade union labour mediation issues to increasingly more individual or group issues, could have led to significant variations in mediator style. However, the overall style in Ireland is evidenced by situational flexibility in terms of the range of issues workplace mediators in Ireland address.   Stylistic eclecticism is also the norm for all groups of mediators in the study – with mediators making judgements on style to

use based on issues presenting and goals of the participants. Much of this may be attributed to the reality that: some mediators practice mediation outside the workplace context; many mediators have been trained by a small cadre of mediation trainers; and close to 3 in 4 mediators in the study are members of the MII.

There are six stages in the workplace mediation process rather than the three commonly referred to in the literature and in mediator training. Previous research has assumed that the process developed in labour mediation remains the prevalent model. This research has shown that the stages in the interface between organisations and how workplace mediators interact before, during and after mediation are particularly relevant to the mediation process in individual issues which relate to interests and ongoing relationships in work. External mediators particularly use all six stages to some extent: stage 1 engagement with organisations; stage 2 pre-mediation; stage 3 joint session with some caucus as needed; stage 4 agreement and feedback; and stage five review. Internal mediation services use stages 1-4 most often. The WRC mediators and mediators working with employers and trade unions have are more likely to use stages 2-4. Review of mediated agreements by mediators is an under-utilised stage in the process of mediation. The study has also established a gap in Ireland in terms of evaluation and feedback – particularly a systematic, longer-term feedback loop between mediators and organisations. Although the WRC and some internal mediation services record and report resolution rates there is little evidence of evaluation of the mediation process, mediator and outcomes from the experience of participants. Failing to recognise the missing links in the mediation process, along with limited cogeneration of what mediation is within the mediation profession and within organisations, particularly within a voluntarist system, has contributed to the slow uptake of workplace mediation.

External and internal mediators, where individual issues are concerned, operate an essential feedback loop from process to environment in relation to workplace mediation with some mediators "crossing borders" and "building bridges" (Zariski, 2010:224). Mediators do this through the role they play in encouraging mediation over investigation or adjudication, review processes, encouraging participant voice to the organisation in terms of feedback at the end of the mediation, and facilitating

organisations to further develop their conflict competence in terms of training, etc. As with any system the options for feedback are key and there can be a lack of attention to the connection between what a process achieves and that process' underlying goals.

It is also clearer to see how participant self-determination as a core principle of mediation is supported by mediators at the first stage of the process through agreement with the organisation, followed by the potential participants making an informed choice to mediate through pre-mediation or individual meetings. This research has demonstrated how assurances of confidentiality to protect the participants and provide an environment within which individuals can express themselves freely are provided for within the structure of an agreement to mediate being brought to each participant's attention at pre-mediation or individual meetings. This relates confidentiality strongly with self-determination and voluntarism in that participants in mediation understand their own role in terms of confidentiality and sign up to that behaviour. This serves to assure that participants trust the mediation process – their own, their colleague(s) and the mediator's adherence to the signed agreement to mediate. This research has also brought greater clarity to the workplace mediator preference to keep parties in joint session where there is an ongoing working relationship, and the reasons which lead a mediator to decide to move from this preferred approach of keeping participants together to separate or caucus meetings. In capturing these interactions for external and internal mediators in particular, the findings build further knowledge of key mediator strategies at pre-mediation or individual meetings that can affect the outcomes of the mediation. This contributes to the literature in that greater detail is provided as to the initiation of mediation, pre-mediation or individual meetings, preference for joint sessions with limited caucus, agreement and organisational feedback, and review elements of the overall mediation process. The feedback provided to organisations following mediation by some mediators may influence the workplace conflict culture incrementally.

Limitations of the Research

This study set out to understand the features of the organisational field of workplace mediation in the Republic of Ireland. It is possible to generalise to the total population of workplace mediators in the Republic of Ireland. The contextual factors are obviously specific to this jurisdiction. Participation in the research was voluntary so the statistical difficulty of a partially incomplete data matrix may arise where some mediators chose not to respond to the survey or to some survey items. The survey response rate was 60 per cent which accords very positively with response rates reported in the literature of 17 per cent to 78 per cent. The final respondents did not systematically differ from the population in a way that would plausibly interact with the constructs of interest. Much of the data was generated through mediator self-reports which may lead to concerns over the degree to which the research is valid. Every attempt has been made to be reflexive in acknowledging potential construct validity issues in terms of researcher bias as interviewer and focus group facilitator, in the wording and order of questions for both the qualitative methods and also in the design of the survey questionnaire. Interviewees were provided with a copy of their interview transcript although this would not have countered social desirability concerns.

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