

Mediation Review 2008

Table of Contents

1	INTRODUCTION	3
2	THE EQUALITY TRIBUNAL	5
2.1	MEDIATION	5
2.2	CODE OF ETHICS	7
2.3	MEDIATION MODEL	7
3	STRUCTURE OF THE MEDIATION SERVICE	9
3.1	PURPOSE AND OBJECTIVES.....	9
3.2	MEDIATION SERVICE STRUCTURE.....	10
4	REPORT OF OPERATIONS 2008	11
4.1	KEY OBJECTIVES –EXPANSION OF THE SERVICE.....	13
5	MEDIATION OUTCOMES – ANALYSIS	15
6	SIGNIFICANT FEATURES OF 2008 AGREEMENTS	20
6.1	EMPLOYMENT EQUALITY AGREEMENTS.....	20
6.2	EQUAL STATUS AGREEMENTS.....	20
	APPENDICES	21
1	<i>Principles of Mediation.....</i>	22
2	<i>Mediation Model - Structure of a Mediation Session.....</i>	26
3	<i>Standard Agreement Terms.....</i>	29
4	<i>Organisation Chart</i>	32

CHAPTER 1 INTRODUCTION

This Mediation Review is published as part of the Annual Report of the Equality Tribunal for the year 2008.

Mediation at the Equality Tribunal completed its eighth year of operation in 2008. This was a year that saw a major turnover of staff in the Mediation Service with five experienced Mediation Practitioners departing the Tribunal and being replaced by six new Mediation Trainees.

While the Tribunal lost much of its professional mediation expertise in 2008, mediation once again proved a very valuable resource for the Tribunal with **68%** of the cases referred to mediation in 2008 being closed through the mediation process. A detailed account of the performance of the Tribunal's Mediation Service's in 2008, is contained in **Chapter 4 – Report of Operations 2008**.

The Tribunal's Mediation Service offers the parties in a discrimination case the opportunity, if they wish, to reach an agreed settlement. The process respects the confidentiality of the parties, is completely voluntary (either party may withdraw at any stage) and generally much faster than an investigation before an Equality Officer.

Mediation is an informal process in which the Mediator, who is a neutral and impartial third party with no power to impose a resolution, helps the parties in dispute to try to reach a mutually acceptable settlement. In investigation there is usually a winner and a loser, whereas at mediation, both parties could be considered 'winners' if agreement is reached.

The process does not involve written submissions. Mediation is private and agreements, which are legally enforceable through the courts, are not published. The parties are also given a “cooling-off” period before being asked to sign an agreement to ensure that both sides can give informed consent on signing.

In the event that agreement is not reached at mediation the complainant may seek to have the investigation resumed. In judicial review proceedings, the High Court confirmed the Tribunal’s interpretation that, under equality legislation, such a request must be submitted in writing within 28 days of the issue of a non-resolution notice. If the case returns to investigation, both sides are precluded from using information disclosed at mediation without consent. In addition the Mediator will not pass on any information obtained at mediation to an investigating Equality Officer. It is also important to note that a Mediator will never be asked subsequently to investigate a complaint that s/he has mediated.

The singular advantage of mediation is that it can achieve a “win-win” situation if the parties wish to reach a settlement. Innovative and creative solutions are also possible which often allow the parties to reach a settlement which meets their particular needs. Examples of mediation outcomes achieved in 2008 can be found in **Chapter 6 – Significant Features of 2008 Agreements.**

CHAPTER 2

THE EQUALITY TRIBUNAL

The Equality Tribunal, which is an independent quasi-judicial statutory body, was established in 1999. Its function is to investigate and/or mediate complaints of unlawful discrimination under the Employment Equality Acts 1998 to 2008, the Equal Status Acts 2000 – 2008 and the Pensions Acts 1990-2008.

Discrimination is unlawful on nine grounds [gender, marital status, family status, sexual orientation, religion, age, disability, race (including colour, nationality or national or ethnic origin) and membership of the Traveller community] in relation to employment, occupational benefits, the disposal of goods and property, the provision of services and accommodation, and in certain aspects of education.

Mediation

The Employment Equality Act 1998 (Section 78) provided for the establishment of a mediation service, staffed by Mediators. A similar approach to mediation is also found in the Equal Status Act 2000 (Section 24) and the Pensions Act 2004. Mediators are recruited from the ranks of Equality Officers and are given specialised training for mediation resulting in professional accreditation.

The Acts provide that “if at any time after a case has been referred to the Director ... it appears to the Director that the case is one which could be resolved by mediation, the Director shall refer the case for mediation to an Mediator”.

The Acts further provide that:

- mediation cannot take place if either party objects;
- mediation shall be conducted in private;
- if the case is resolved, the Mediator shall record the terms of the settlement in writing;
- the written record shall be signed by the complainant and the respondent;
- the written record, when signed, is legally binding and enforceable (subject to the limits on redress set out in the Acts);
- a copy of the written record is retained by the Tribunal.

Where either party objects to mediation, or where either party withdraws before mediation starts, the case will then go before an Equality Officer for investigation and Decision. Where mediation does not result in agreement, the mediator will issue a formal non-resolution notice at which point the complainant may apply to have the case returned for investigation and Decision by an Equality Officer. It is important to note, however, that the relevant Acts provide that such requests must be submitted within 28 days of a non-resolution notice being issued otherwise the case file is closed.

In all such cases, investigations are conducted by an Equality Officer other than the one who mediated the complaint. The Equality Tribunal also ensures that the Equality Officer hearing the case will have no knowledge of what occurred at mediation. Investigations are held in private and legally binding Decisions are published.

Code of Ethics

The Mediation Service operates in accordance with its code of ethics as set out in its Principles of Mediation (see Appendix 1). In developing these principles, the Tribunal took cognisance of the Code of Ethics of the Mediators Institute of Ireland of which the Tribunal's mediators are all members.

The Tribunal's Principles of Mediation cover issues such as –

Consent, Voluntary Process, Accessibility, Impartiality, Advice, Power Balancing, Joint Sessions, Confidentiality, Participation, Disclosure, Issues for discussion, Third Parties and Representatives, Settlement and No Settlement.

Mediation Model

- Equality mediation is an alternative to the quasi-judicial Equality Officer investigation
- The mediation model operated by the Tribunal draws from a range of mediation orientations such as the Narrative, Transformative and Cognitive models of mediation.
- The Mediator is always careful not to pressurise the parties to reach a settlement.
- Mediators do not rely on written submissions prior to the mediation taking place.
- At the mediation session, the Mediator asks the parties themselves to describe at first hand the background to the dispute.
- The Mediator will be able to point to sources of information, but will not advise the parties as to how they should proceed.
- The mediation option is available to the parties at any stage in the investigation process right up to the day of an equality hearing.

- A hearing presided over by an Equality Officer may be adjourned to give the parties an opportunity to resolve the case by mediation.
- Any agreement reached at mediation must be on the basis of the “informed consent” of each party.
- Advisors and other representatives are welcome but there is no requirement that those attending mediations or hearings of the Tribunal should be represented.

CHAPTER 3 STRUCTURE OF THE MEDIATION SERVICE

Purpose and Objective

The Equality Tribunal's Statement of Strategy 2008 - 2010 identifies Effective Complaint Resolution as one of its three High Level Goals. With regard to mediation, the Tribunal's objective is to provide a Mediation Service in line with national and international best practice and to deliver mediated agreements which are durable and equitable.

Structure of the Tribunal's Mediation Service

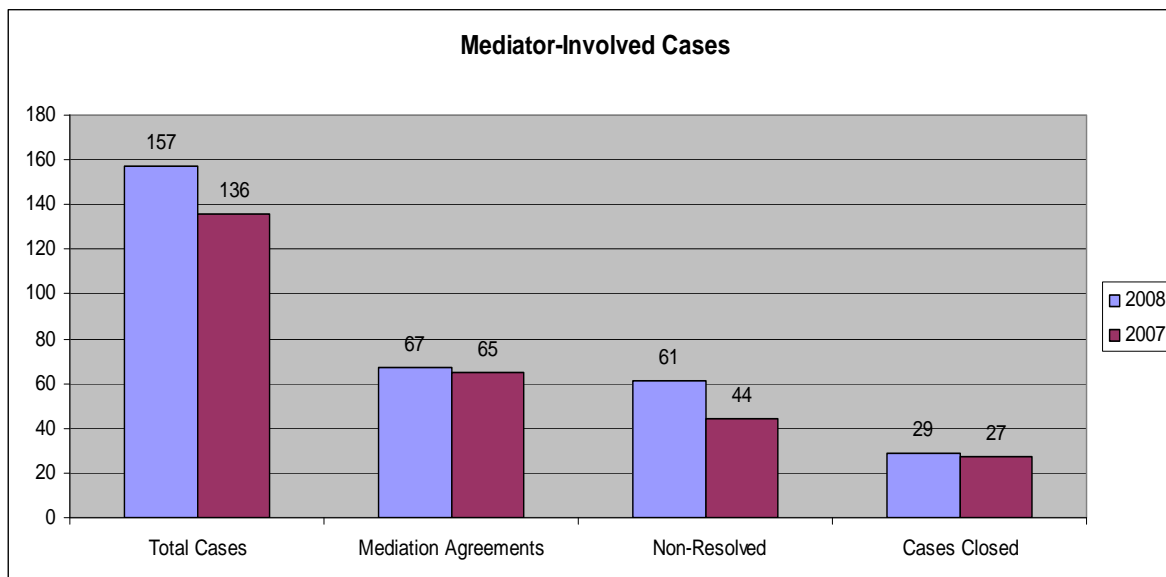
The Equality Tribunal is headed by the Director, Ms Melanie Pine, with the Head of Mediation having responsibility for the Tribunal's Mediation Service. The Head of Mediation's principal functions include managing the Tribunal's mediation caseload and putting in place appropriate training for the Tribunal's pool of mediators. In addition, the Head of Mediation is responsible for ongoing liaison with outside mediation-related organizations such as the Mediators Institute of Ireland and the Association of Conflict Resolution in the USA while also making presentations on the Tribunal's Mediation Service to third level institutions, trade unions and other organisations.

In 2008 the Tribunal continued the practice of "screening" cases for mediation in situations where both parties had not rejected mediation. This role was performed by the Head of Mediation whose knowledge and experience of previous equality mediations enabled him to identify those cases that were unlikely to succeed at mediation. By so doing, the Tribunal was able to utilise its scarce mediation resources more positively in 2008 resulting in a **24%** increase in the number of cases disposed of by way of mediation over 2007 (**125** compared to **101**).

As outlined earlier, the Tribunal lost five professional mediators and acquired six trainee mediators in 2008. Despite the loss of this professional expertise, the Tribunal's mediators engaged with the parties in **15%** more cases in 2008 than in 2007 (**157** compared to **136**).

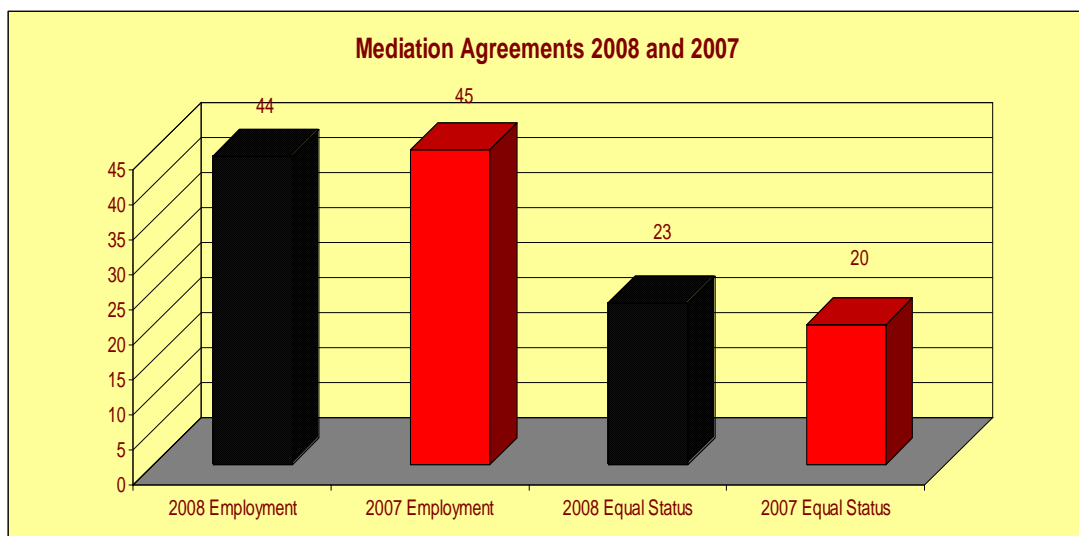
On foot of a tendering process, in 2008 trainers were recruited to provide MII Part 1 Accredited Training for the new mediation trainees, as a result of which the Tribunal succeeded in obtaining Certified Member Status for six new mediators from the Mediators Institute of Ireland (MII). During the year, all mediators continued to enhance their knowledge of mediation practice and theory by undergoing additional mediation training, attending mediation conferences and engaging in peer group meetings.

- In 2008, the Equality Tribunal experienced a **33%** increase in the number of cases being referred to its Mediation Service (**251** compared to **189** in 2007). The Mediation Service dealt with **184** cases in 2008 with **27** of them either being withdrawn or settled between the parties before a mediation session was convened. The remaining **157** cases were assigned to mediators for attention during the year representing an increase of **15%** over 2007 (**157** cases compared to **136** in 2007).



- In all, **67** mediation agreements were achieved in 2008 against **61** non-resolved cases, reflecting increases of **3%** and **38%** respectively on 2007 figures.
- With many of its professional mediators being replaced with new recruits in 2008, the Tribunal experienced an expected drop in its success rate at the mediation table with resolutions falling from **60%** to **52%**. These outcomes are expected to improve as newer mediators become more practiced at mediation.

- Overall, **68%** of cases handled by the Mediation Service did not require subsequent investigation. In calculating this **68%**, account was taken of successful mediation outcomes and also of mediation cases where the complaint was not pursued following engagement with the Mediation Service.
- Of the **61** non-resolved cases referred to above, **18** complaints did not proceed to investigation post mediation. In a similar vein, a further **29** complaints were withdrawn or closed on or after the mediation stage (compared to **27** in 2007). These involved cases where, after engaging with the mediator at mediation, parties either settled their dispute between themselves or the complainant decided that they did not wish to pursue the matter further.
- Analysis of the Mediation Outcomes for 2008 shows a slight **3%** increase in successful mediations over 2007. Overall, in 2008, Mediators resolved **44** Employment Equality cases and **23** Equal Status complaints compared to **45** and **20** respectively in 2007.



The above outcomes reflect the continuing strong trend in employment related complaints being received by the Equality Tribunal in recent years and the relative stability in the number of complaints being submitted under Equal Status legislation.

A key objective for the Mediation Service in 2008 was the overall effective management of its caseload. In general, mediation agreements in 2008 were achieved in less than a third the time a case would take to be investigated by an Equality Officer.

On average, resolved cases took less than 8 months from the date of referral to mediation to the date the agreement was signed. In approximately 90% of cases the mediation process was essentially completed after one mediation session – with either agreement being reached or the case being deemed not resolvable.

Key Objectives –Expansion of the Service

Continuing Training

Arising from the Tribunal's core value of professionalism, continuing professional learning and training remains an important objective of the Service. In this context, MII Part 1 Accredited Mediation Training was sourced for new Equality Officers in early 2008 leading to an additional six new mediators becoming Certified MII members during the year.

Promoting mediation

In fulfilment of the publicity and promotional objective for the Service:

- (a) a report on the operations of the Mediation Service is published each year, as part of the Tribunal's Annual Report, and

(b) presentations on the Equality Tribunal's Mediation Service are made on an ongoing basis at national and international conferences, as part of third-level mediation training programs and to a variety of trade unions and other user groups.

(c) awareness of the Tribunal's Mediation Service is enhanced through mediators' attendance at Mediation Conferences

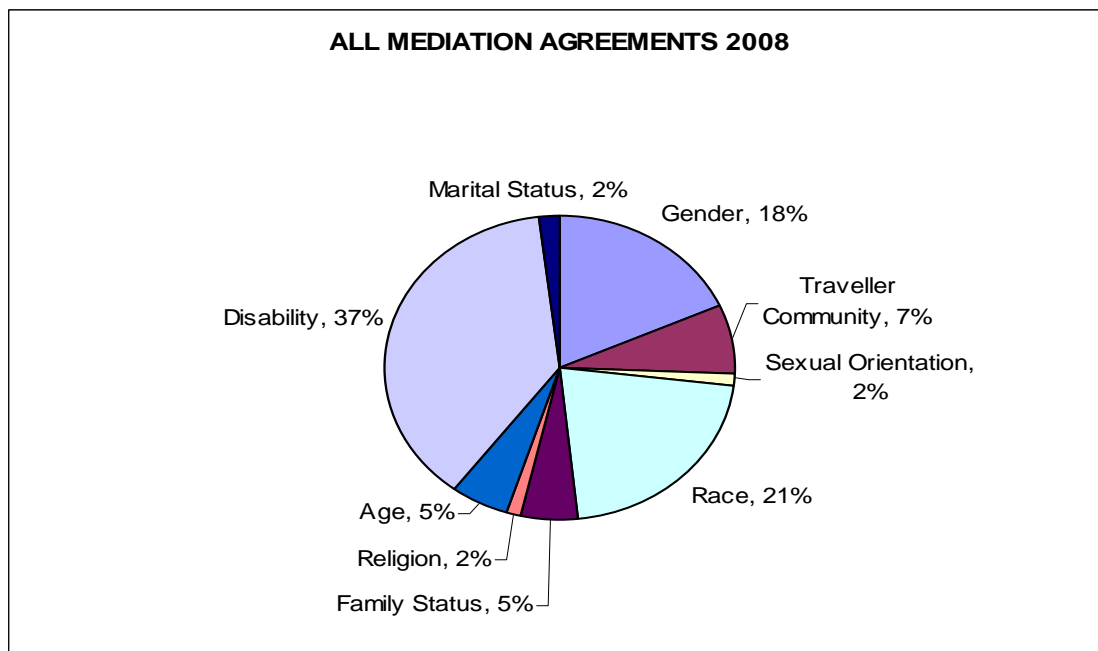
(d) the Tribunal's explanatory leaflet on its Mediation Service gained the "Plain English" quality mark during 2006

(e) in 2008, the Equality Tribunal made a comprehensive submission to the Law Reform Commission outlining the Tribunal's views on the recommendations contained in the Commission's Consultation Paper on Alternative Dispute Resolution

CHAPTER 5 MEDIATION OUTCOMES – ANALYSIS BY GROUND

Table 5-1 Mediation Agreements Under All Acts 2008

Mediation Agreements Under All Acts 2008 By Ground		
Ground	Agreements	Percentage
Gender	12	18%
Traveller Community	5	7%
Race	15	21%
Disability	25	37%
Age	3	5%
Marital Status	2	3%
Family Status	3	5%
Sexual Orientation	1	2%
Religion	1	2%
Total 2008	67	100%



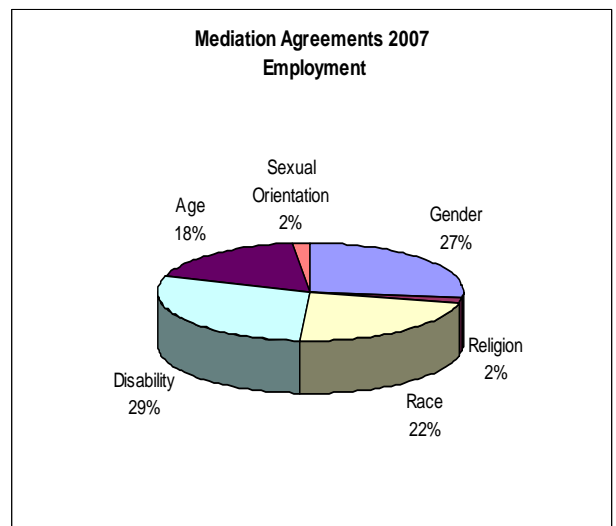
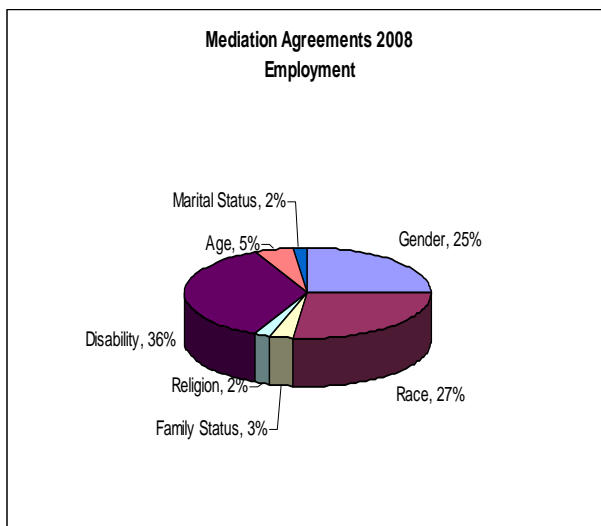
Statistical Analysis

- Over a third of cases resolved at mediation are on the Disability ground
- Settlements under the Gender and Race grounds also figure strongly

Table 5-2 Mediation Agreements by Act and Ground

Table 5-2 Mediation Agreements By Act and Ground								
Breakdown By Ground	Employment Equality Acts 1998 to 2008				Equal Status Acts 2000-2008			
	2008		2007		2008		2007	
	%		%		%		%	
Gender	25%		27%		4%		5%	
Traveller Community	0%		0%		22%		25%	
Race	27%		22%		13%		0%	
Disability	36%		29%		40%		55%	
Age	5%		18%		4%		5%	
Marital Status	2%		0%		4%		0%	
Family Status	3%		0%		9%		10%	
Sexual Orientation	0%		2%		4%		0%	
Religion	2%		2%		0		0%	
Total Agreements	44	100%	45	100%	23	100%	20	100%

Table 5-2 Charts



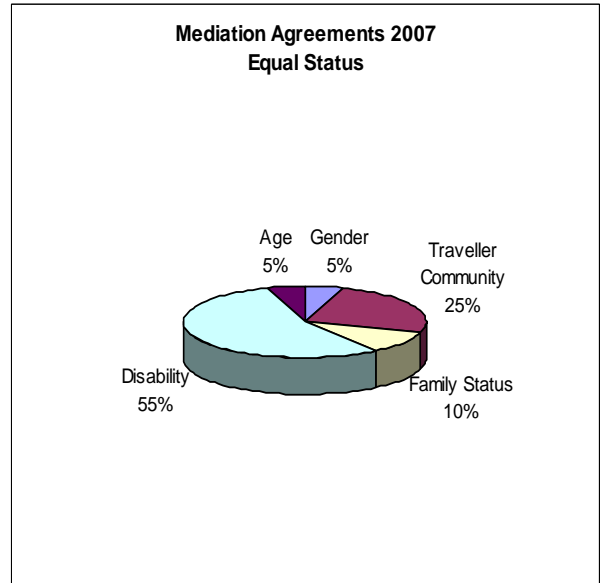
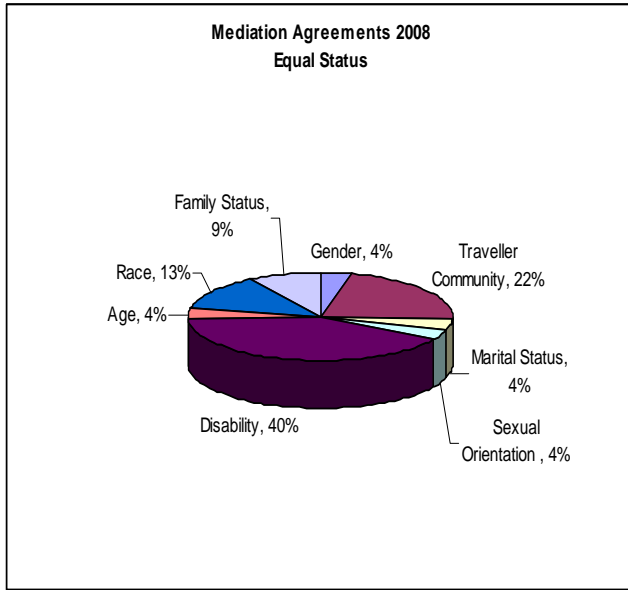
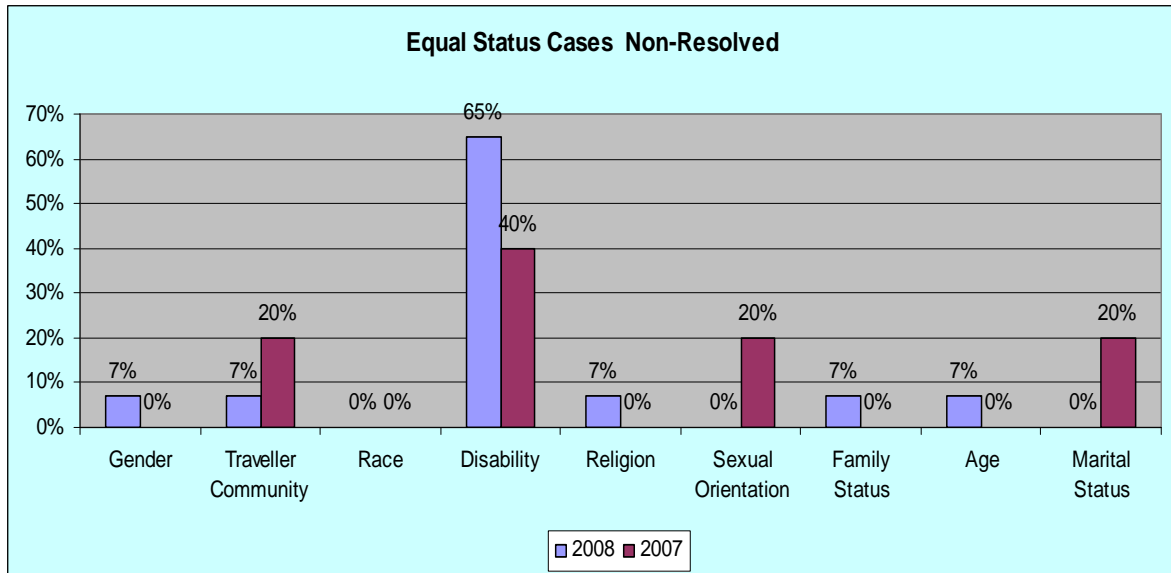
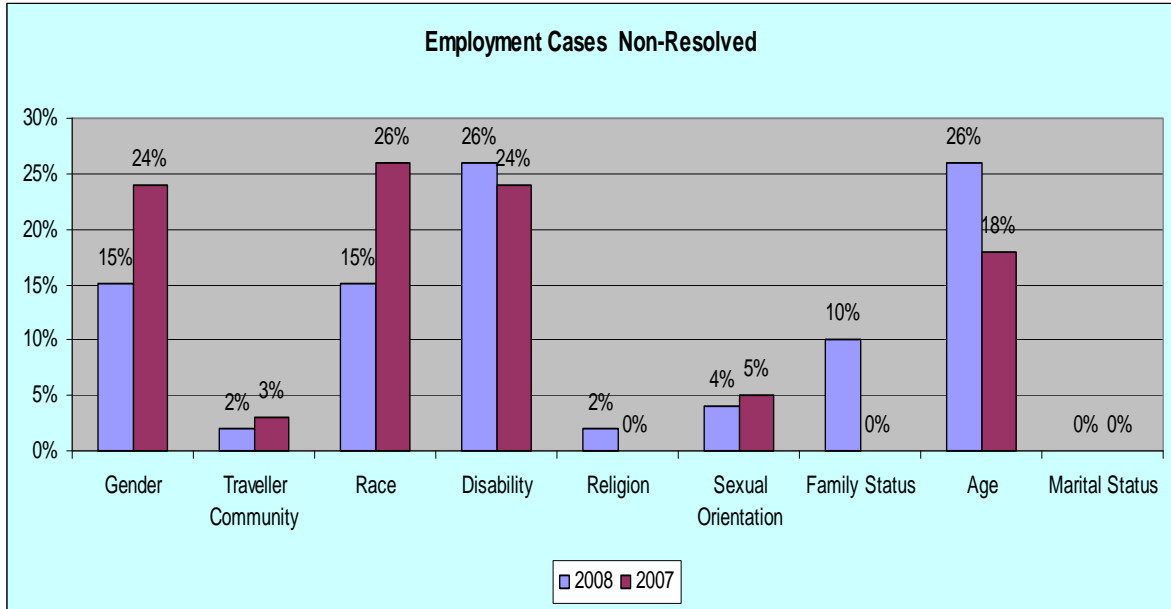


Table 5.3 Non-Resolved Mediations – By Act and Ground

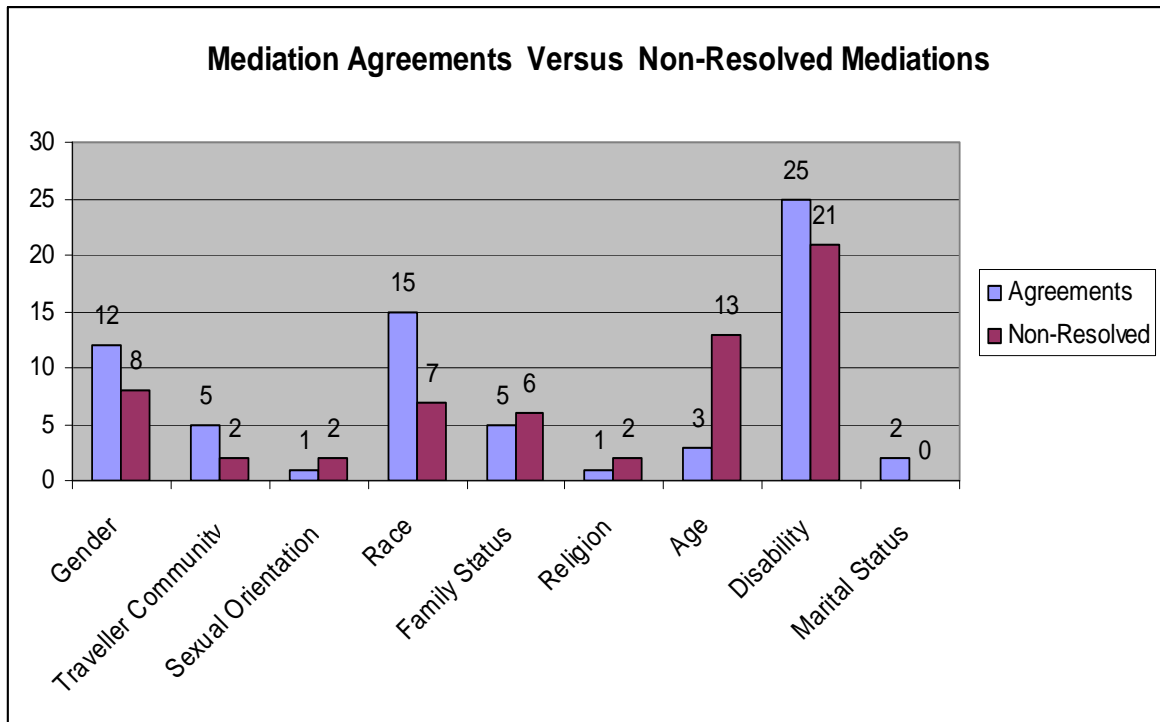
Table 5-3 Non-Resolved Mediations By Act and Ground					
Breakdown By Ground	Employment Equality Acts 1998 and 2008		Equal Status Acts 2000-2008		
			2008	2007	
	2008	2007	2008	2007	2007
	%	%	%	%	%
Gender	15%	24%	7%	0%	0%
Traveller Community	2%	3%	7%	20%	20%
Race	15%	26%	0%	0%	0%
Disability	26%	24%	65%	40%	40%
Age	26%	18%	7%	0%	0%
Marital Status	0%	0%	0%	20%	20%
Family Status	10%	0%	7%	0%	0%
Sexual Orientation	4%	5%	0%	20%	20%
Religion	2%	0%	7%	0%	0%
Total Cases	47	38	14	5	5
	100%	100%	100%	100%	100%

Table 5-3 Charts



Comparison Between Resolved and Non-Resolved Mediations

2008



CHAPTER 6 SIGNIFICANT FEATURES OF 2008 AGREEMENTS

1.1 Employment Equality Agreements

- Assurance that an employee's visual impairment would not impede their future promotion prospects
- Appointment of a complainant to a newly created research post
- Agreement to nominate an employee for a specific training course
- Agreement to grant an employee a backdated promotion
- Offer to pay an employee's counselling fees and acknowledgement of distress caused
- Goodwill gesture of €1,250 and Restaurant Voucher to the value of €100
- Assistance provided to an employee in applying for an Educational Grant

1.2 Equal Status Agreements

- Apology and a €400 voucher for a hardware store
- Access granted to a person with a disability through Hotel grounds to a public beach
- Agreement by a Local Authority to provide purpose built wheelchair friendly bungalow
- Apology for upset caused and a donation of €2000 to charity
- Apology and a years membership of Fitness Club to a person with a disability
- Undertaking by a Financial Institution to provide customers with privacy when completing sensitive forms
- Review of a tenant's rent and a return to former rent structure

Appendices

- Appendix 1 Principles of Mediation at the Equality Tribunal**
- Appendix 2 Equality Mediation Model – Structure of Mediation**
- Appendix 3 Outline Mediation Agreement – Standard Version**
- Appendix 4 Organisation Chart of the Equality Tribunal
(as at 31 December 2008)**

Appendix 1

Principles of Mediation

The objective of the Tribunal's Mediation Service is to provide an alternative dispute resolution process to that of investigation in respect of claims for equal pay in employment and complaints of discrimination, harassment, sexual harassment and victimisation under the Employment Equality Acts 1998 to 2008, the Equal Status Act, 2000 - 2008 and the Pensions Acts 1990 - 2008. The Mediation Service adheres to the following principles in the mediation process:-

- **Referral:** If the Director of the Tribunal considers that a case could be resolved by mediation she will refer it to an Mediator. By default, cases are referred to mediation unless one or other party objects.
- **Voluntary Process:** Mediation is a voluntary process. Mediation cannot proceed if either of the parties objects to a mediation referral. Likewise each side may withdraw consent at any stage of the process and mediation will be terminated immediately. The complainant may request the resumption of the investigation as laid down in each Act.
- **Impartiality:** The Mediation Service guarantees impartiality and does not take sides with either party. It is not the role of the Mediator to determine the rights or wrongs of the situation nor to adjudicate the outcome.
- **Accessibility:** The Mediation Service is committed to ensuring accessibility for all persons. Special arrangements as appropriate will be put in place for any person with special needs who wishes to use the Service.
- **The Mediation Session:** The Mediation Service arranges a mutually convenient meeting between the parties and a Mediator as soon as practicable after the case has been referred. In a small percentage of cases, a number of such meetings may be necessary as part of the mediation process.

- **Participation:** Before the mediation session commences, the Mediator will provide the parties with a clear explanation of the nature and purpose of mediation. It is essential that everyone necessary to reach a settlement participates in the mediation process.
- **Issues for Discussion:** It is the responsibility of the parties to identify, if necessary with the help of the Mediator, the issues requiring negotiation. The parties are responsible for the terms of any settlement, they reach.
- **Conflict of Interest:** The Mediator will not proceed with mediation if there is a concern that a conflict of interest might arise between themselves and one or other of the parties. If the Mediator or one of the parties believes that a conflict of interest might exist or might be perceived to exist, the Mediator together with the parties must discuss whether it is appropriate for the Mediator to continue their involvement.
- **Joint Sessions:** Parties are normally seen together. However, in some cases the Mediator may consider it helpful to discuss an issue alone with either of the parties before or during a mediation session. Should the Mediator decide to do this, the conditions and procedures for this will be clarified and agreed with the parties beforehand.
- **Power Balancing:** The Mediator has a duty to ensure balanced negotiation and to prevent manipulative or intimidating negotiation techniques. The Mediator will endeavour to empower the parties to make free and informed choices as to content and outcome.
- **Disclosure:** The mediation process is based on full disclosure and it is important that all information relevant to the dispute is shared by the parties at mediation. However, if the Mediator agrees to have discussions with either of the parties separately from the other with a view towards progressing the negotiations, that party may, with the Mediator's agreement, give him/her information which will be kept in confidence and not shared with the other party.
- **Confidentiality:** Mediation is conducted in private and the terms of any settlement are not published. Information furnished at mediation or investigation may not be published or otherwise disclosed ¹. Any person

¹Except on the order of the High Court or Circuit Court or with the consent of both parties at mediation and of any other person to whom the information may relate.

who discloses information in contravention of the Acts ² is guilty of an offence.

The Service further guarantees that any information disclosed to the Mediator remains confidential to the Mediation Service and shall not be released to an investigating Equality Officer if the dispute is not resolved at mediation and the investigation is resumed. The Mediator cannot be called to give evidence of what occurred at mediation in the course of a subsequent investigation.

- **Advice:** The Mediator will only give information in those areas where s/he is qualified to do so by training and experience. Where the mediation may affect other rights and obligations or where monetary settlements are involved, the Mediator will advise the parties to seek independent advice.
- **Third Parties:** Third parties (e.g. advisors or representatives) are welcome at mediation. The Mediator will facilitate all the parties involved in reaching agreement and will discuss, at the outset of the mediation, how best third parties can contribute to the mediation process.
- **MII Code of Ethics:** The Tribunal's mediators are all members of the Mediators Institute of Ireland (MII) and conduct mediation in accordance with the MII's Code of Ethics. The Tribunal's mediators also comply with the Institute's requirements with regard to Continuing Professional Development.
- **Child Protection:** If harm or risk to a child is made known during mediation, the Mediator will ensure that appropriate action is taken to protect the best interests of the child in accordance with the provisions of the Department of Health and Children's publication 'Children First: National Guidelines for the Protection and Welfare of Children 1999'.
- **Settlement:** If agreement is reached between the parties, the Mediator prepares a written record of the terms of the settlement. A draft copy of the proposed settlement is issued to each party after the final mediation session. When each party is satisfied with the final terms of the settlement, it is signed by both parties. The Tribunal will then send a copy to each side with a letter formally closing the complaint file. A copy is also retained by the Director of the Equality Tribunal. The settlement once signed is legally binding and may be enforced on application to the Circuit Court.

²Section 97(2) of the Employment Equality Act 1998 and Section 36(2) of the Equal Status Act 2000

- **No Settlement:** If agreement is not reached at Mediation, the Mediator is required by law to issue a formal “Non-Resolution” notice to both parties. If the complainant still wishes to pursue their complaint they must respond to the notice in writing **within 28 days** seeking a resumption of the Investigation of the complaint. Where such an application is not made within the specified time limit, the Tribunal has no further jurisdiction in the matter and must close the case file.

Appendix 2

Mediation Model - Structure of a Mediation Session

Mediation Session – Introduction

Mediation sessions are generally scheduled to last about two hours. The Mediator usually starts the process, after introductions, by explaining the guidelines and principles underlying the mediation process and especially the voluntary nature of the process, confidentiality issues etc.

Generally starting with the complainant, both sides are asked to tell the Mediator their side of the story - what happened from their perspective to bring them before the Equality Tribunal, how they feel about the circumstances surrounding the incident(s) of alleged discrimination, what they think happened at the time of the incident(s), what the respondent's policies are and how they are implemented.

This dialogue is an important feature of the mediation process as it gives the parties a chance to say what happened from their point of view while the other side listens. In many cases this might be the first time the parties have spoken to each other since the alleged incident(s) of discrimination. In some cases the parties may never have discussed the issues face to face.

Mediation Session – Identification of Issues

The Mediator will help the parties to identify the gap between them and the key issues that need to be addressed. The Mediator, unlike an Equality Officer, makes no findings in fact or law and cannot take a position as to whether s/he believes all or part of one side's story or that of the other. The Mediator does not give advice to either side but can point to sources of information (e.g. Equality Officer Decisions) and advice (legal advisers, trade unions, the Equality Authority, Citizens' Information Centres and voluntary bodies), where appropriate.

The parties are asked how they might see the dispute being resolved and, if they wish to negotiate on particular aspects of the framework, the Mediator will assist them. In some cases it is useful to discuss the finer details of a possible settlement with each side separately at a side-conference (caucus).

Mediation Session – Agreement

If the basis of an agreement is reached between the parties at mediation, the Mediator will normally conclude the mediation session and take away the information s/he has obtained. The Mediator then prepares a written record of the terms of the settlement and sends a draft copy of the proposed settlement to each party, thus allowing both sides a “cooling off” period so that they can be sure that they wish to sign the agreement. When each party is satisfied with the final terms of the settlement, it is signed by both parties and a copy formally sent to each party. A copy of the agreement is retained by the Equality Tribunal. The settlement once signed is legally binding and may be enforced.

Occasionally, on completion of the mediation session, it can happen that both sides indicate a preference for signing the Mediation Agreement on the day. In such circumstances, if s/he is satisfied that both sides fully understand the terms and conditions of the mediated agreement, the Mediator will facilitate the parties by preparing an Agreement document for signature on the day.

Standard terms of agreement which have been developed over the last two years are set out in Appendix 3. The terms are similar for both employment equality and equal status agreements, although the Section numbering will change, as appropriate to the legislation.

Mediation Session - Non Resolution

If agreement is not reached and it appears to the Mediator that the case cannot be resolved by mediation, a notice to that effect will be issued by the Mediator to both parties. If a complainant wishes to apply for a resumption of the investigation s/he **must** make an application to the Director of the Equality Tribunal for a resumption of the investigation of the case **within 28 days from the issue of the non-resolution notice**. If

an application for a resumption of the investigation is not properly made within the 28 day period the Tribunal ceases to have jurisdiction in the case.

Appendix 3

Sample of Standard Mediation Agreement

Equal Status Acts 2000 - 2008

Section 24(4)

Mediation Agreement between

Name, Complainant

And

Name, Respondent

Terms of Settlement

Agreement No: AGR2008-No.

Case Ref. No: MED/2008/No.

1. Background

A. The complainant referred a case to the Equality Tribunal in accordance with Section 21(1) of the Equal Status Acts, 2000 - 2008 alleging discrimination in relation to...
The case was on the grounds of...

B. Section 24 of the Act states that "if at any time after a case has been referred ... it appears ... that the case is one which could be resolved by mediation the Director shall refer the case for mediation to a Mediator". Mediation cannot commence if either party objects.

C. The parties involved in this case did not object to the process of mediation. The case was referred by the Director to **...Name...** Mediator, for mediation under Section 24(1) of the Act. The parties met at a joint session with the mediator on **DATE (+follow up, where appropriate)** and reached agreement on the terms of a settlement. In accordance with Section 24(4) of the Act this document (agreement) forms the written record of the

terms of settlement agreed by the parties to this case and has been prepared by ...Name... Mediator, on the basis of the discussions between the parties at mediation.

2. Confidentiality

Mediation is conducted in private and the terms of any settlement are not published. Information furnished at mediation may not be published or disclosed except on the order of the High Court or Circuit Court or with the consent of the person furnishing the information and of any other person to whom the information may relate. Any person who discloses information in contravention of the Act is guilty of an offence (Section 36 of the Equal Status Act, 2000)

3. Terms of Settlement

A. It is a term of this agreement that the terms of settlement, the names of the parties and information furnished at mediation will not be disclosed by either party except in accordance with Section 36 of the Act.

(Note: In the interests of promoting mediation as an alternative dispute resolution process the Equality Tribunal reserves the right to publish, in a manner which does not identify the parties involved, information on the number of cases resolved at mediation along with sample extracts from agreements.)

B.

Terms of Agreed Actions

[SPECIFIC TERMS OF SETTLEMENT INSERTED HERE]

C. The complainant agrees that the terms of this agreement are in full and final settlement of the case referred to at 1.A above

4. Enforcement by Circuit Court

Section 31(2) provides that “if a person who is party to a settlement to which Section 24 applies fails to give effect, in whole or in part, to the terms of the settlement, then ... the Circuit Court may make an order directing the person affected ... to carry out those terms

... The Circuit Court shall not direct any person to pay any sum or do any other thing which (had the matter been dealt with otherwise than by mediation) could not have been provided for by way of redress under Section 27 of the Act.

An application under Section 31 may be made by the complainant or by the Equality Authority, with the consent of the complainant, after 42 days from the date of the written record of the settlement.

These rights are without prejudice to any additional rights which may be available to either party under contract law, consistent with the Act.

5. The parties have read and understand the contents of this agreement which they confirm is a true and accurate record of the terms of settlement agreed between the parties.

Signature of Complainant:	Signature of Respondent:
_____	_____
Signature of Witness:	Signature of Witness:
Position:	Position:
Date:	Date:

Appendix 4: Organisation Chart of the Equality Tribunal

(As at 31 December 2008)

Director		
Melanie Pine		
Employment Equality	Equal Status	Mediation
Deirdre Sweeney Head of Employment Equality	Elaine Cassidy Head of Equal Status	
Stephen Bonnländer Vivian Jackson Orla Jones Hugh Lonsdale Orlaith Mannion Valerie Murtagh Conor Stokes Bernadette Treanor Equality Officers	Tara Coogan Marian Duffy James Kelly Enda Murphy Gary O'Doherty Brian O'Byrne Equality Officers	Brian O'Byrne * Acting Head of Mediation Marian Duffy * Vivian Jackson* Hugh Lonsdale* Orlaith Mannion* Enda Murphy* Gary O'Doherty * Conor Stokes* Bernadette Treanor* * Mediation Officers
Resource Management		
Legal Management	Corporate Resources	Secretariat
Sile Larkin Legal Advisor	Fiona Lafferty Head of Corporate Resources	Sile Larkin* Head of Secretariat
		Catherine Jestin Registrar Brenda Ward Secretariat Manager

	Martin Kehoe ICT Manager	Barry Quinn Deputy Registrar/ Secretariat Unit Manager
Vacancy Legal Research Assistant	Frank Bergin Acting Office Manager Mary Daly Executive Officer	Brian Farrell Executive Offices
Deirdre McCormack Legal Unit Support Officer	Noelle Doody Noel Kelly Stephen Laffan Support Officers	Roisin Cahill Damien Byrne Amanda Cullen Susan Fetton Finbarr O'Mahony Support Officers
	John Fitzgerald Joe Pettigrew Services Officers	

- *These staff members have dual roles. Nine Equality Officers also act as Equality Mediation Officers (mediators) and the Legal advisor also acts as Head of Secretariat.*