

## PRACTICE DIRECTION

# PILOT SCHEME FOR MEDIATION IN CENTRAL LONDON COUNTY COURT

## This Practice Direction supplements CPR Part 26

### General

- 1.1** This practice direction provides for a pilot scheme to operate from 1<sup>st</sup> April 2004 to 31<sup>st</sup> March 2005 in relation to claims in the Central London County Court.
- 1.2** This practice direction enables the Central London County Court to –
  - (1) require the parties to certain types of claims either to attend a mediation appointment or to give reasons for objecting to doing so; and
  - (2) stay the claim until such an appointment takes place.
- 1.3** Cases in which a notice of referral to mediation has been served under paragraph 3.1 prior to 31<sup>st</sup> March 2005 shall remain subject to this practice direction until either –
  - (1) a mediation appointment has taken place; or
  - (2) any stay of execution imposed under paragraph 5 has expired or been lifted by the court, whichever shall be the sooner.

### Types of claims to which this practice direction applies

- 2.** This practice direction applies to a claim if it meets all the following conditions –
  - (1) the small claims track is not the normal track for the claim;
  - (2) no party to the claim is –
    - (a) a child or protected party; or
    - (b) exempt from payment of court fees; and
  - (3) the court has not granted an interim injunction in the proceedings.

(‘Child’ and ‘protected party’ have the same meaning as in rule 21.1(2).)

### Service of mediation notice

- 3.1** The court may, when it serves the allocation questionnaire under rule 26.3, serve a notice of referral to mediation on each party –
  - (1) notifying them that the claim is to be referred to mediation; and
  - (2) requiring them, within 14 days after service of the notice on them, to file and serve a reply to the notice in which they must –
    - (a) state whether they agree or object to mediation;
    - (b) specify any dates within three months of the date of filing the response on which they would not be able to attend a mediation appointment; and
    - (c) if they object to mediation, set out their reasons for doing so.
- 3.2** The cases where a notice of referral to mediation is served on the parties will be chosen at random from those that meet the criteria set out in paragraph 2.

- 3.3** A party who receives a notice of referral to mediation need not complete and file an allocation questionnaire unless or until directed to do so by the court.

### **Objection to mediation**

- 4.1** If one or more of the parties states in his reply that he objects to mediation, the case will be referred to a district judge who may –
- (1)** direct the case to be listed for a hearing of the objections to mediation;
  - (2)** direct that a mediation appointment should proceed;
  - (3)** order the parties to file and serve completed allocation questionnaires; or
  - (4)** give such directions as to the management of the case as he considers appropriate.
- 4.2** If a party does not file a reply within the time specified in the notice of referral to mediation, the court and all other parties may proceed as if that party has no objection to the use of mediation in the case.

### **Mediation appointment**

- 5.1** If no party objects to mediation, or the court directs that mediation should proceed, the court will direct that the proceedings be stayed for an initial period of two months.
- 5.2** In accordance with the existing Central London County Court Mediation Scheme, the court will fix a date, time and place for the mediation appointment and notify the parties accordingly once all the parties have paid the mediator's charges.
- 5.3** When the court fixes a mediation appointment it will if necessary extend the stay of proceedings until the date of the appointment.

### **Mediator's charges**

- 6.1** A mediator's charge is payable by each party who is to attend a mediation appointment. The court will notify each party of the amount of the charge and request payment of that amount in the notice of referral to mediation.
- 6.2** A party must pay the mediator's charge to the court within 14 days of being requested to do so or such other period as the court may direct. Any request for further time in which to pay the mediator's charge may be made by letter.
- 6.3** If any party fails to pay the mediator's charge the court will refer the case to a district judge for directions.

### **Unsuccessful mediation**

- 7.** If the mediation does not proceed or does not fully resolve the dispute, the mediator will notify the court and the court will –
- (1)** either –
    - (a)** allocate the claim to a track; or
    - (b)** order the parties to file and serve completed allocation questionnaires (if not already filed); and
  - (2)** give such directions for the further management of the case as it considers appropriate.