

The Pilot Scheme on Legal Aid for Mediation in Matrimonial Cases



Legal Aid Department

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When a marriage breaks down, many couples find it difficult to resolve anything. They may be confused about what they really want and they often find it difficult even just to talk. Arguments about money, property and custody of children can often drag on and in some cases end up in court.

Mediation provides an alternative means of resolving disputes with the help of an independent mediator to the satisfaction of the couples without a court hearing which can be quicker and less stressful.

In March 2004, the Chief Justice's Working Party on Civil Justice Reform recommended in its final report that the Legal Aid Department (LAD) should have power to fund mediation in appropriate cases. In response to the recommendation, LAD has decided to conduct a "Pilot Scheme on Legal Aid for Mediation in Matrimonial Cases" (**the Scheme**) for 12 months commencing on 15 March 2005 with a view to assessing the cost-effectiveness and implication of extending legal aid to mediation in matrimonial cases.



This leaflet aims to provide information on the operation of **the Scheme** for legally aided persons in matrimonial cases. Detailed information on what is mediation, the roles of mediators, the advantages of mediation can be found in the Family Mediation leaflet published by the Judiciary, a copy of which is attached.

How to join the Scheme?

If you are granted legal aid to take matrimonial proceedings and wish to attempt mediation to resolve any issues in dispute with the other party, you can ask your assigned solicitor to refer the case to the Mediation Co-ordinator's Office run by the Judiciary. The Mediation Co-ordinator will make arrangement for you and the other party to the proceedings to attend an information session. If your case is found to be suitable for mediation, the Mediation Co-ordinator will help you to choose a mediator. The mediator chosen will conduct the mediation sessions at his/her office.

Participation in mediation under the Scheme is entirely voluntary and legal aid funding of your case will not be affected if you decide not to attempt mediation.

How could the assigned solicitor assist during the mediation process?

Your assigned solicitor will continue to represent you in relation to the matrimonial proceedings for which legal aid is granted. You can seek and they will offer legal advice to you at any stage of the mediation. They will, where necessary, appear on your behalf in any subsequent court hearings and do whatever that is required to bring the matters to a satisfactory end.

What will happen at the end of the mediation process?

If you and the other party manage to agree on some or all of the issues in dispute through mediation, the mediator will help to draw up an agreement. You should then inform your assigned solicitor and get him to apply to court and make the agreement an order of the court.

If mediation fails or if there are issues remaining outstanding that cannot be resolved through mediation, you are at liberty to continue with the proceedings with the assistance of legal aid.



Who pays the mediator's fees?

Under **the Scheme**, mediation service is provided free of charge.

The LAD will pay for the mediator's fees for **both sides**.

Is there any cap on the number of mediation hours?

The number of hours for mediation under **the Scheme** is capped at 15 hours per case. The LAD may approve funding beyond the initial 15 hours in suitable cases.

What should you do if you are not satisfied with the conduct of the mediator during the mediation process?

If you are not satisfied with the conduct of the mediator, you may bring it to the attention of the mediation organization to which the mediator is accredited for their follow up action. The LAD is not in a position to deal with such matters.

