

## **Judicial Mediation**

### **Employment Tribunals (England and Wales)**

Judicial mediation is a form of Alternative Dispute Resolution. The Employment Tribunals offer a judicial mediation scheme which started as a pilot in 2006, and is now available throughout England and Wales. Over 65% of cases mediated reach a successful settlement on the day of mediation. Most cases that do not succeed on the day of the mediation are settled before the hearing as a result of the impetus created by the judicial mediation.

Judicial mediation involves bringing the parties together for a mediation at a private preliminary hearing before a trained Employment Judge who remains neutral and tries to assist the parties in resolving their disputes, which may include remedies which would not be available at a hearing before an Employment Tribunal (e.g. a reference).

Suitable cases are identified, as part of the normal tribunal process, by an Employment Judge at a preliminary hearing at which the Employment Judge advises the parties of the possibility of an offer of judicial mediation. If both parties agree, the Regional Employment Judge considers the file and decides whether to make an offer of judicial mediation, depending upon resource constraints and the suitability of the issues for mediation. Parties are notified if an offer cannot be made.

An offer of judicial mediation is made by a telephone preliminary hearing, when a date is set for the judicial mediation and any consequential variations to existing orders are made.

The judicial mediation is confidential and held in private. Nothing said or taking place at the judicial mediation may be referred to at any subsequent hearing and the Employment Judge mediating is precluded from any further involvement in the case.

Judicial mediation is an alternative to a tribunal hearing but not an alternative to ACAS conciliation. Although ACAS and the tribunal judiciary collaborate in relation to judicial mediation, the statutory duty placed on ACAS is not compromised by the process and ACAS maintains its independence.