



Ministry
of Justice



Using mediation in the civil justice system

What people told us in our consultation



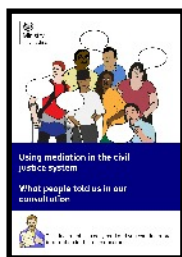
This document is in easy read and you can find more information in the main document.



Ministry
of Justice

The Ministry of Justice

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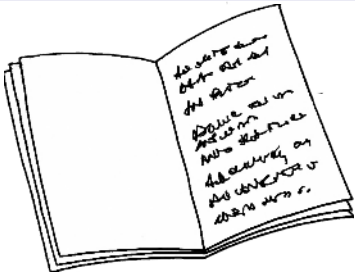
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The Ministry of Justice



We are the Ministry of Justice.

Our work is about justice or making sure people have fairness and equality.



We are a government department that looks after:

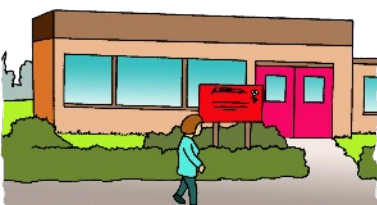
- courts



- prisons



- probation services



- attendance centres.

What this paper is about

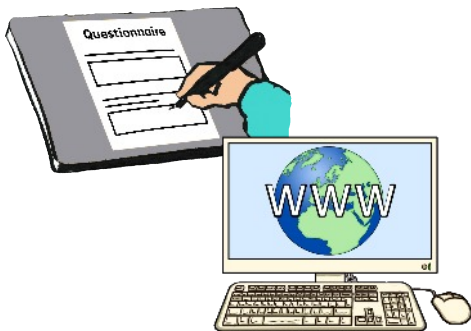


Last year we looked at ways to make our court services better and quicker.



We had a **consultation**.

A **consultation** means we asked people to answer some questions.



You may have answered some questions in a paper or online.



Or you may have come along to a stakeholder meeting.

About the consultation



We asked people questions about using a free **mediation** service when they have a **small claim**.



A **small claim** is a simple court case about small amounts of money. Most small claims are under £10,000.



Mediation is a way that people can talk through their problems with the help of a **mediator** who is employed by the courts.

A **mediator** is a person who helps a people sort out their dispute.



We asked questions about how to make our court services work better.



We asked people about having a free 1 hour telephone call with our **mediation service**.



Mediation helps more than half of people who use it.



If people can sort out their problems using a mediator, the courts will have more time for difficult matters.



134 people answered some or all of the consultation questions.



They were from the following groups:

- people who work in mediation, law, universities, courts, and local government

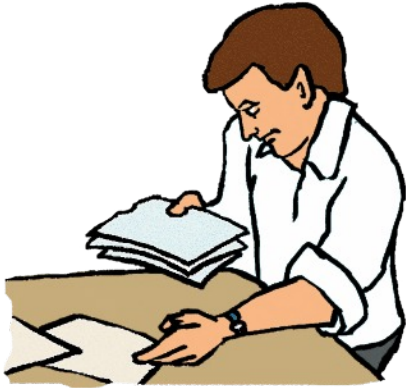


- organisations and groups who give advice.



We also held three roundtable meetings stakeholders.

What the Government is going to do now



We looked at what you told us at the consultations.



We have decided to add mediation as a step in all small claims such as claims from individuals and businesses to recover money they are owed and housing conditions.



In our consultation we found out that:

- mediation is fast and fair



- people think mediators do their job well



- when people go to mediation it frees up the courts to look at other matters.



We hope to help people sort out their problems instead of waiting and worrying about going to court.



We will start by adding mediation as a step in small claims for a specific amount of money.



You will still be able to go to court if mediation does not sort out your problem.

The way mediation will work

The way the Small Claims Mediation Service works now will stay:



- mediation will still be free



- we will give you help and information so you can take part in mediation safely

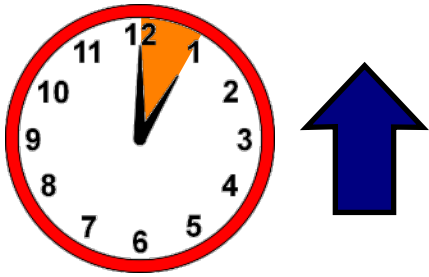


- the mediation will happen on the telephone



- it will run for 1 hour.

If you need **reasonable adjustment**, we can:



- give you more time



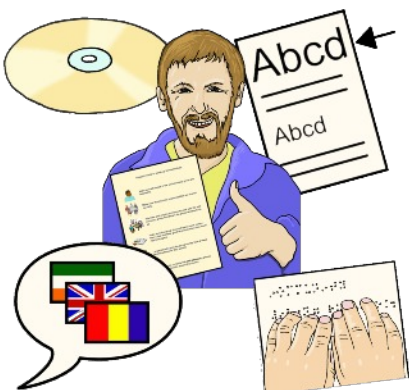
- meet face to face



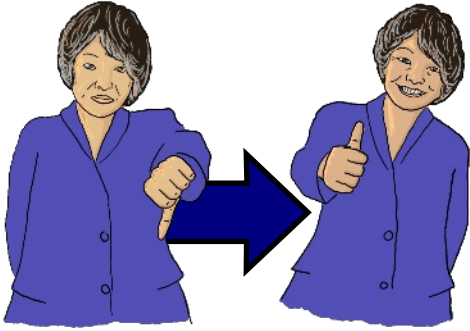
- use an interpreter or translator



- look at ways to make you feel safe.



Reasonable adjustment means making our service accessible to people with additional needs.



If we cannot make reasonable adjustments or keep you safe we will find other ways for you to complete the mediation step.



We will give you help and information to get ready for your mediation. We will have this information in lots of formats such as a video about mediation.

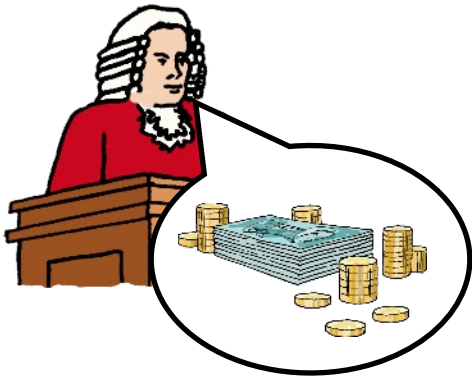


We will explain that you can still go to court if you cannot **settle** your case at mediation.

Settle means both sides agree on what will happen next.



We expect people to take part in mediation meetings.



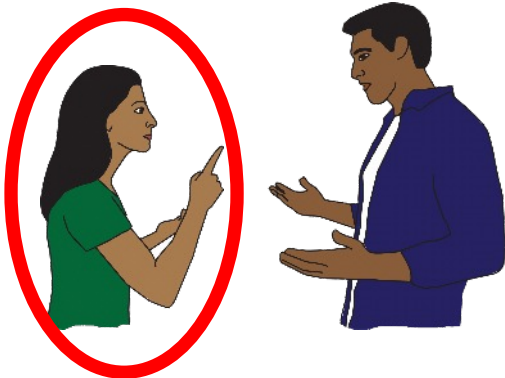
When people do not take part in their mediation meeting a judge will decide what happens. For example, the judge may ask one side to pay money for the other side's legal costs.

These are the steps of mediation

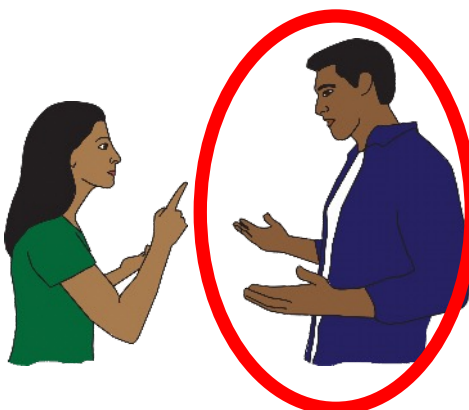
1. There is a legal problem

A person or a business has a **dispute** with another person or business.

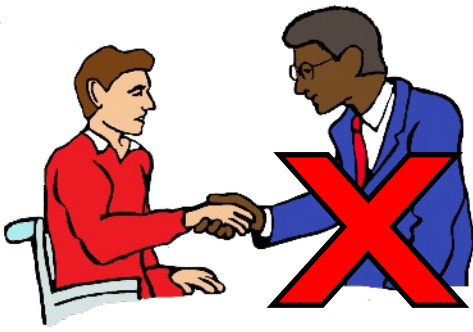
Dispute means one side thinks the other side has broken the law.



The person or business that has the dispute is called the **claimant**.



The person or business they have a problem with is called the **defendant**.



If the claimant and the defendant cannot solve the dispute by themselves they go to step 2.



2. The claimant asks the County Court to help solve the dispute.



3. Defence

If the defendant does not agree with the claim they tell the court their side of the story.

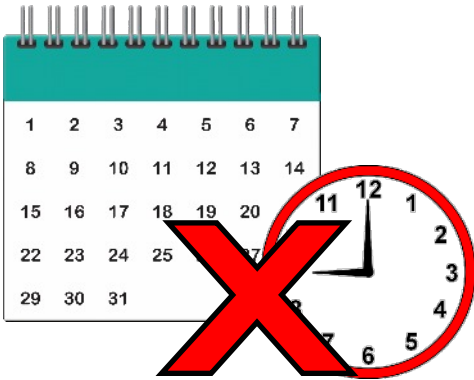


If the defendant does not contact the court the claim goes to a judgment.

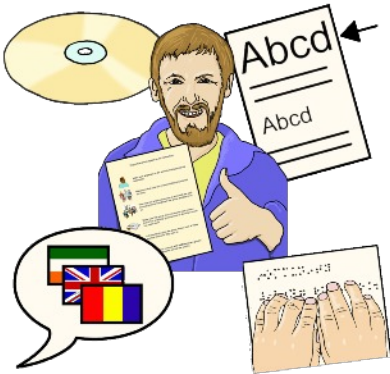
4. Setting up the mediation meeting

The court will tell claimant and defendant they will go to mediation. Both sides will have to answer questions about:

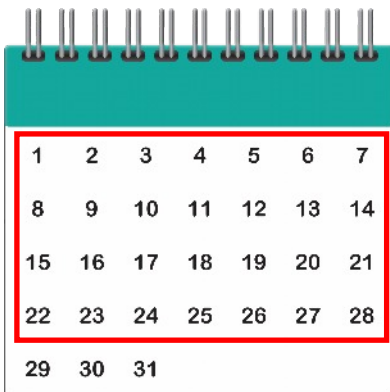
- days and times they will not be free for mediation



- if they need reasonable adjustment.



The court offers a mediation meeting within 28 days.



The court will tell you how to get ready for the 1-hour phone meeting.





5. On the day of mediation the mediator phones the claimant and the defendant.

- each side speaks only to the mediator



- they do not speak to each other



- the mediator will help both sides find a way to agree to fix their problem.



The mediator will stop the meeting if they are worried for a vulnerable person's safety.



6. When both sides agree to settle, the mediator writes down the agreement and sends it to the court.



7. If you do not agree to settle, the dispute will go to a court hearing with a judge.

Government plans for using mediation services for claims over £10,000



The steps above are about going to mediation instead of court for small claims of up to £10,000.



This part is about how to use mediation for bigger claims of more than £10,000.



The consultation asked people about using **external mediation services** for bigger claims.

An **external mediation service** is also called a **third-party mediator** or **civil mediation**. The courts do not run **external mediation**.

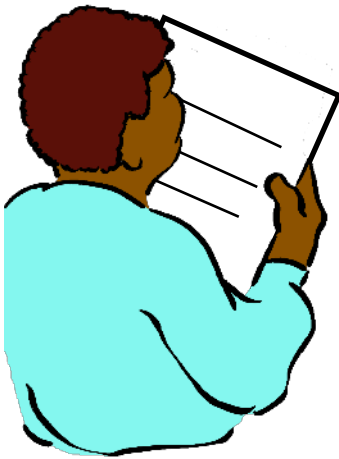


We want to help the public feel confident about civil mediation services.



External mediation services work with their own sets of rules which are called **standards**. **Professional bodies** set these rules.

Professional bodies are groups like the Civil Mediation Council.



People told us the standards for external mediation services must be clear and strong so claimants know how to use and trust external mediators.



We think the current standards are strong and we do not want to make too many rules for external mediators.



We will ask the professional bodies to work with us to build the standards where we need help.



Equalities

By law we must promote **equality**.

Equality means everyone having the same chances to do what they can.



Some people may need extra help to get the same chances.

It is against the law to discriminate, which means treat people differently, because of:



- race



- sex



- disability



- sexual orientation



- religion or belief



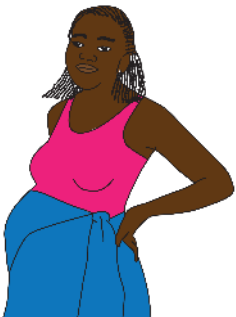
- age



- marriage or civil partnership



- gender reassignment



- pregnancy and maternity

These are called **protected characteristics**.



Direct discrimination

People said they do not think mediation directly discriminates against people with protected characteristics.



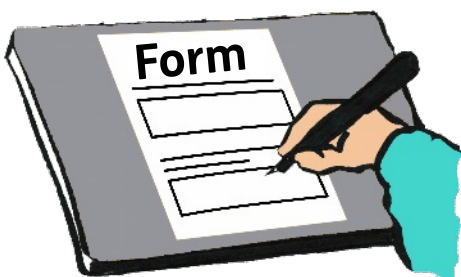
Indirect discrimination

In the consultation people said there may be ways that mediation could indirectly discriminate against people with protected characteristics.

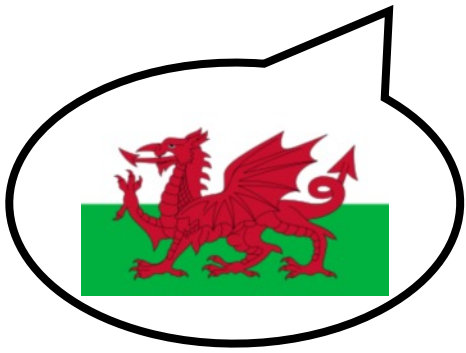


So, we will:

- offer face to face meetings with vulnerable people



- have paper forms for people who find it hard to use smartphones or computers because they are older or have a disability

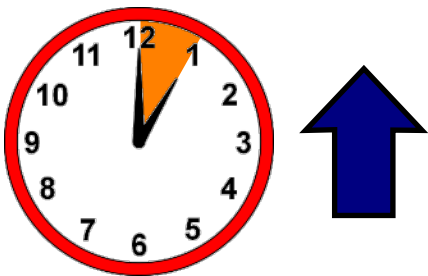


- provide Welsh speaking mediators.



Discrimination due to disability

We train our mediators to help people with additional needs.

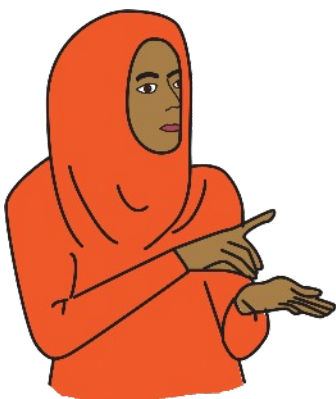


If you need reasonable adjustment, we can:

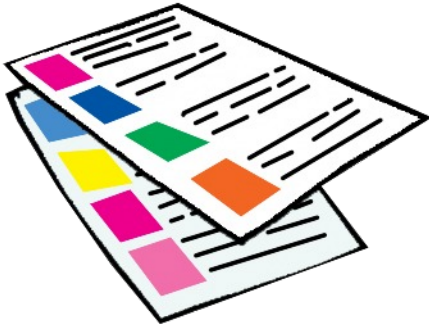
- give you more time



- meet face to face



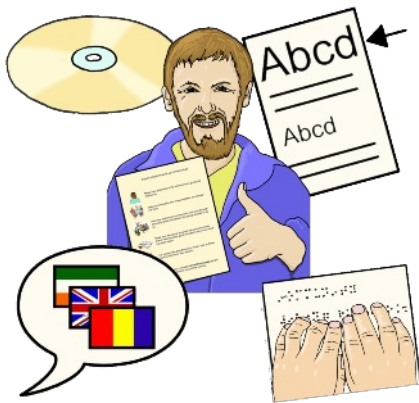
- use an interpreter or translator



- have documents in other formats such as easy read



- look at ways to make you feel safe during mediation.



Reasonable adjustment means making our service accessible to people with disabilities.



If we cannot make reasonable adjustments or keep you safe we will close the meeting early or before it has begun.



We think mediation will build equality and people in our consultation agreed.



Build good relations

We think that mediation makes dispute resolution happen faster and builds good relations.



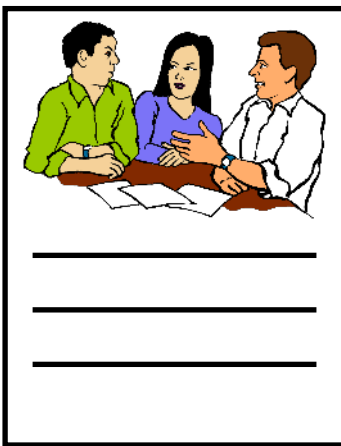
Evaluation

Evaluation means checking something. When we check to see if mediation is working well we will also look at how it is working for people with protected characteristics.

Next steps



The Government thanks everyone who took part in our consultations.



We will advertise information about starting the mediation steps in the coming months.



We will keep working with the mediation sector to offer good mediation services.

Complaints or comments



If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at:



Dispute Resolution Team,
Ministry of Justice,
102 Petty France,
London. SW1H 9AJ



Email:
disputeresolution.enquiries.evidence@justice.gov.uk

What the words mean

Consultation means we asked people to answer some questions.

Claimant is the person or business that has the dispute.

Defendant is the person or business they have a problem with.

Discriminate means to treat people differently, because of their race, sex, disability, sexual orientation, religion, age, marriage, pregnancy.

Dispute means one side thinks the other side has broken the law.

Equality means everyone having the same chances to do what they can.

Evaluation means checking how something is working.

An **external mediation service** is also called a **third-party mediator** or **civil mediation**.

Mediation is a way that people can talk through their problems with the help of a mediator.

A **mediator** is a person who helps a claimant and a defendant sort out their dispute.

Professional bodies are groups like the Civil Mediation Council. Professional bodies set these rules which are called **standards**.

Reasonable adjustment means making our service accessible to people with additional needs.

A **small claim** is a simple court cases about amounts of money under £10,000.

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Ref ISL143 23. July 2023.

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