

Title: Government Response to consultation document
 "Increasing the use of mediation in the civil justice system"

Impact Assessment (IA)

IA No: MoJ034/2022

Date: 1 December 2023

Stage: Final

RPC Reference No: RPC-MoJ-5212(2)c

Source of intervention: Domestic Domestic

Lead department or agency: Ministry of Justice

Type of measure: Secondary Legislation

Other departments or agencies: HM Courts & Tribunal Service (HMCTS)

Contact for enquiries:

Disputeresolution.enquiries.evidence@justice.gov.uk

Summary: Intervention and Options

RPC Opinion: GREEN

Cost of Preferred (or more likely) Option (in 2023 prices)

Total Net Present Social Value	Business Net Present Value	Net cost to business per year	Business Impact Target Status Qualifying provision
£383m	£379m	£44m	QRP (- 173 m)

What is the problem under consideration? Why is government action or intervention necessary?

Claims to the County Court for a specified amount of money up to £10,000 are allocated to the small claims track. Currently, it is taking an average of 52.6 weeks for such claims to reach a hearing before a judge, which means individuals and businesses are waiting over one year to get justice. To speed up the dispute resolution process, HMCTS operates the Small Claims Mediation Service (SCMS) which provides a free mediation appointment on a voluntary basis for parties to certain small claims. Yet, while 52.5% of cases mediated via the SCMS result in a settlement, only 19% of parties currently utilise the service. To help parties achieve a swifter resolution and to free up judicial time for cases that really need to be decided by a judge, the government is proposing that defended specified money small claims disputes will be required to attempt mediation through the SCMS before their claim progresses to a hearing before a judge. This will ensure that the vast majority of small claims are offered the opportunity to reach a swifter, more consensual, resolution and to avoid the time and cost of litigation. We propose to do this via a pilot practice direction to change the Civil Procedure Rules to introduce a requirement for specified money claims to attend a free, one-hour mediation session with the SCMS with a view to expanding this to all small claims at a later date. The pilot practice direction will be replaced with a statutory Rule change via secondary legislation following evaluation and any adjustments. Government intervention is needed to make mediation a required step in civil litigation.

What are the policy objectives of the action or intervention and the intended effects?

The policy objectives are to support the delivery of a sustainable and efficient civil justice system by: delivering swift access to justice for all civil court users for specified money small claims; ensuring that judicial resources are focussed on more complex cases; reducing the cost of resolving disputes for parties to specified money small claims; and by ensuring that the parties to specified money small claims are confident in and satisfied with the mediation process as a means to resolve their disputes.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

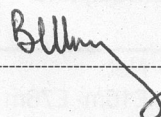
- **Option 0:** do nothing. Continue with current system of optional attendance at mediation.
- **Option 1 (preferred):** Create a pilot practice direction to introduce a requirement into the Civil Procedure Rules to mediate for specified money small claims disputes, pending the introduction of a permanent rule change via secondary legislation at a later stage, following evaluation and any adjustments.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** May 2025

Is this measure likely to impact on international trade and investment?	No			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister



Date:

19 December 2023