



Informing Progress - Shaping the Future

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Practice Direction 51ZE - Small Claims Track Automatic Referral to Mediation Pilot Scheme

Introduction

The Civil Procedure Rules Committee, with the approval of the Lord Chancellor, has introduced Practice Direction 51ZE, which establishes a pilot scheme for the automatic referral of small claims track cases to mediation in certain designated county courts in England and Wales. This Practice Direction aims to promote the use of alternative dispute resolution methods, specifically mediation, in an effort to reduce the burden on the court system and associated costs.

Pilot Duration and Scope

The pilot scheme will commence on May 22, 2024, and will remain in effect until May 21, 2026. It will apply to claims issued on or after May 22, 2024, (subject to specific exemptions (see below) and only specified damages are included in the first tranche R.26.6.) at the designated county courts participating in the pilot. The specific county courts involved in the pilot will be identified and listed in the Practice Direction.

Automatic Referral Process

Under the pilot scheme, all small claims allocated to the small claims track at the designated county courts will be automatically referred to mediation, unless they fall within the specified exemptions. The court will issue a notice to the parties, fixing a mediation appointment and providing details of the mediation process.

Exemptions from Automatic Referral

Rule 26.6.— (1) This rule applies to claims started in the County Court which would normally be allocated to the small claims track pursuant to rule 26.9. **(2) This rule— (a) applies where the only remedy claimed is, or purports to be, a specified sum of money; (b) does not apply to a claim which is started using Online Civil Money Claims; and (c) does not in any event apply to road traffic accident or personal injury claims.**

Accordingly, certain types of claims will be exempted from the automatic referral to mediation, including:

- 1. Personal Injury Claims:** (as stated above) such as accidents or medical negligence, will be excluded from the pilot scheme.
- 2. Housing Disrepair Claims:** Claims related to disrepair or defects in residential properties will not be subject to automatic referral to mediation.
- 3. Unsuitability for Mediation:** If the court determines that mediation is unsuitable or inappropriate for a particular claim, it may exempt the claim from the pilot scheme.
- 4. Party Application for Exemption:** Either party to the claim may apply to the court to remove the claim from the pilot scheme, providing valid reasons for the exemption.

Mediation Process

The mediation appointment must take place within eight weeks of the date of the notice issued by the court. The parties will be required to attend the mediation session and engage in good faith efforts to resolve the dispute through the mediation process.

If the mediation is successful and the parties reach a settlement agreement, the court will be notified, and the claim will be resolved accordingly.

Post-Mediation Proceedings

If the mediation process does not result in a resolution of the claim, the court will provide further case management directions for the continuation of the proceedings. These directions may include setting a date for a final hearing or requesting additional evidence or submissions from the parties.

Opting Out of Mediation

Parties have the option to opt out of the mediation process by filing the relevant form and paying the prescribed fee within 28 days of the date of the mediation notice issued by the court. However, it is important to note that the court may consider imposing costs sanctions on parties who unreasonably refuse or fail to engage with the mediation process.

Costs Sanctions

The Practice Direction provides for the possibility of costs sanctions being imposed on parties who unreasonably refuse or fail to engage with the mediation process. The court will consider the parties' conduct and reasons for non-engagement when determining whether to impose costs sanctions.

Evaluation and Review

The impact of the pilot scheme on case resolution and efficiency will be closely monitored and evaluated during and after the pilot period. This evaluation will assess the effectiveness of the automatic referral to mediation in reducing the burden on the court system and associated costs. The findings of the evaluation will inform any potential future decisions regarding the wider implementation or modification of the pilot scheme.

Conclusion

The Practice Direction 51ZE represents a significant step towards promoting alternative dispute resolution methods, particularly mediation, in the resolution of small claims track cases. By automatically referring eligible cases to mediation, the pilot scheme aims to reduce the number of court hearings and associated costs, while providing parties with an opportunity to resolve their disputes through a more collaborative and efficient process. The success of the pilot scheme will be closely monitored, and its impact on the justice system will be carefully evaluated before any potential wider implementation or modifications are considered.

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