



Minute

To: European Commission For The Efficiency Of 26th June 2007
Justice (CEPEJ)

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Subject: **Small Claims Mediation Service at Manchester County Court
and roll out to all HMCS areas in England and Wales and 2007 / 2008**

Background.

In April 2005 the Ministry of Justice (then the Department of Constitutional Affairs - DCA) established a pilot scheme at Manchester County Court offering free, in-court mediation in small claims cases issued at the court. In June 2005 the DCA commissioned an independent evaluation of the pilot scheme. The overall purposes of this evaluation were to assess the effectiveness of the pilot, to explore the views of users of the service and to draw out any conclusions that will be helpful to the DCA in deciding how to take forward its wider remit, under the Public Service Agreement, to reduce the number of cases that are resolved through the courts. In April 2005 James Rustidge was selected to pilot the scheme and underwent the relevant training in mediation. The pilot then became operational in June 2005.

The pilot scheme in Manchester County Court (MCC) was run alongside two other pilot schemes for small claims: the Small Claims Mediation Service at Exeter County Court and the Small Claims Support Service at Reading County Court. All the pilot schemes were independently researched and evaluated. In May 2006 the independent research was published and the DCA concluded that the service Manchester pilot had achieved a higher rate of settlement relative to the other court-based mediation services (86%) and that parties who used the mediation service expressed high levels of satisfaction with the service and the mediation officer (93%).

The research also highlighted the fact that the mediator had independently developed the use of phone mediations to address the needs of parties who were based a

considerable distance away from the Manchester area or as in one particular case which was successfully dealt with, serving a custodial prison sentence. The use of phone mediation as a means to successfully dealing with cases without the need for a judicial hearing significantly increased the take up of parties wishing to use the service and this method now equates to over 70% of all mediation dealt with by the mediator. The research also concluded that phone mediations equally achieved as high a customer satisfaction and settlement rate as had been found in the traditional face to face mediation sessions.

How the small claims mediation scheme works.

Mediation is offered to parties engaged in small claims disputes as a free service. It is also made clear at a number of stages that the service is voluntary and that if either party can decline the offer of mediation.

A district judge may also draw attention to the service by encouraging parties to use the mediation service. The wording 'the district judge has considered this case suitable for mediation and you are therefore invited to use the free small claims mediation service' is often included within the directions order / notice of hearing. It is often the case that this reference to mediation from a district judge is enough to encourage parties to make contact with the mediator who can then discuss mediation and arrange either a face to face or phone based mediation session. If the mediation is successful then the case is discontinued and if not parties attend at the scheduled hearing date.

Development of the scheme

The early success of the pilot scheme led to it being adopted in the Manchester area on a permanent basis. It was quickly rolled out to a further seven courts in the Manchester Group and this has contributed at the end of the second year of the pilot scheme to an overall increase in cases dealt with by mediation of 87% (2005/6 116 cases) (2006/7 217 cases). The average settlement rate over the two years remains high at 84%. It is envisaged that the scheme will continue to attract growing numbers of court users during the coming year who will opt to use the mediation service.

Judicial support of the scheme has been an important factor in its ongoing success. A senior District Judge at Manchester County court recently commented in a publication that *'the really interesting thing is how we changed our own views as district judges, with regard to our role so far as mediation was concerned'*. He continued that *'ultimately, we moved to the position where we became convinced that what we needed to do was simply promote the existence of the mediation scheme'*.

He also commented on the satisfaction levels of the scheme with court users –*'two who had recently been through the mediation process told us it took away a great deal of worry of coming to court; they felt it was important to be able to express themselves in their own words without the anxiety that otherwise they might have felt in the presence of a judge'*

National development of the Manchester small claims mediation model.

The scheme is now being rolled out across England and Wales and already the service is operational in nine other areas and plans are underway to ensure that the same service will be available to all court users by April 2008. The Lord Chancellor launched his 'break through strategy' in March 2007 which outlined eight specific principles that are designed to improve the public's experience of the justice system. Point six of his strategy was 'To provide a simpler and quicker service in the county courts through

introducing a presumption that all but the most complex small claims are dealt with through mediation’.

Manchester County Court provides this level of service as a result of the judiciary, mediator and court staff working in partnership to ensure that court users engaged in a small claims dispute have access to a free mediation service. This can often lead to a quicker less costly and less stressful way of dealing with their case.

In recognition of the work being carried out at Manchester County Court the service was short listed for no less than three awards during 2006 and was recognised as one of the six honoured finalists in the European Scales of Justice Awards 2006.