



**Practice Direction 3A –**

**Pre-Application Protocol for Mediation Information  
and Assessment**

**for the**

***‘Family Mediation Council’***

***This Practice Direction comes into force on  
6th April 2011***

*EXTRACTS from the Practice Direction follow:*

**Pre-application protocol for family mediation  
information and assessment meetings**

**Introduction**

A pre-application protocol for family mediation information and assessment meetings is being introduced from April 2011. This will help the public become aware of

mediation and understand how it could support them going through separation and divorce.

Family mediation can help some people reach a resolution where there is a family dispute. It can help in private law disputes between parents relating to children, with such disputes often best resolved through discussion and agreement, where that can be managed safely and appropriately.

## **What we are doing**

To help the public access information and advice earlier about mediation a pre-application protocol will be introduced from April 2011. So those wishing to make an application to court, whether publicly funded or otherwise, will have to first consider, as appropriate, alternative means of resolving their disputes.

From April 2011, all potential applicants for a court order in relevant family proceedings will be expected, before making their application, to have followed the steps set out in the Protocol. This requires a potential applicant, except in certain specified circumstances, to consider with a mediator whether the dispute may be capable of being resolved through mediation. The court will expect all applicants to have complied with the Protocol before commencing proceedings and (except where exceptional circumstances apply) will expect any respondent to have attended a Mediation Information and Assessment Meeting, if invited to do so.

If court proceedings are taken, the court will wish to know at the first hearing whether mediation has been considered by the parties. In considering the conduct of any relevant family proceedings, the court will take into account any failure to comply with the Protocol and may refer the parties to a meeting with a mediator before the proceedings continue further.

*Further text omitted*



### **PRACTICE DIRECTION 3A - PRE-APPLICATION PROTOCOL FOR MEDIATION INFORMATION AND ASSESSMENT**

**This Practice Direction supplements FPR Part 3**

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*Introduction omitted*

#### **2. Aims**

- 2.1 The purpose of this Practice Direction and the accompanying Protocol is to:
- (a) supplement the court's powers in Part 3 of the FPR to encourage and facilitate the use of alternative dispute resolution;

- (b) set out good practice to be followed by any person who is considering making an application to court for an order in relevant family proceedings; and
- (c) ensure, as far as possible, that all parties have considered mediation as an alternative means of resolving their disputes.

## **1. Rationale**

- 3.1 There is a general acknowledgement that an adversarial court process is not always best-suited to the resolution of family disputes, particularly private law disputes between parents relating to children, with such disputes often best resolved through discussion and agreement, where that can be managed safely and appropriately.
- 3.2 Litigants who seek public funding for certain types of family proceedings are (subject to some exceptions) already required to attend a meeting with a mediator as a pre-condition of receiving public funding.
- 3.3 There is growing recognition of the benefits of early information and advice about mediation and of the need for those wishing to make an application to court, whether publicly-funded or otherwise, to consider alternative means of resolving their disputes, as appropriate.
- 3.4 In private law proceedings relating to children, the court is actively involved in helping parties to explore ways of resolving their dispute. The Private Law Programme, set out in Practice Direction 12B, provides for a first hearing dispute resolution appointment ('FHDRA'), at which the judge, legal advisor or magistrates, accompanied by an officer from Cafcass (the Children and Family Court Advisory and Support Service), will discuss with parties both the nature of their dispute and whether it could be resolved by mediation or other alternative means and can give the parties information about services which may be available to assist them. The court should also have information obtained through safeguarding checks carried out by Cafcass, to ensure that any agreement between the parties, or any dispute resolution process selected, is in the interests of the child and safe for all concerned.
- 3.5 Against that background, it is likely to save court time and expense if the parties take steps to resolve their dispute without pursuing court proceedings. Parties will therefore be expected to explore the scope for resolving their dispute through mediation before embarking on the court process.

*Remaining text omitted*

