

Q&A: Mandatory Mediation and the OCMC/DCP - Updated 23 July

Mandatory Mediation via the OCMC

Q: What's changing and when does it take effect?

From 28 July 2025, a 12-month pilot of mandatory mediation will apply to all defended claims progressing via the Online Civil Money Claims (OCMC) portal that:

- Are under £10,000 in value;
- Do not include any element of personal injury.

The requirement is being introduced through Practice Direction 51R (updated), with mediation rules currently sitting separately under PD 51ZE, however the inference is mediation will be specifically included in 51R.

Q: Does this apply to all RTA claims?

No. Only non-injury RTA claims under £10,000 that are issued via OCMC on or after 28 July are affected. Claims involving personal injury continue via DCP or paper and are excluded from the mediation pilot.

Question from the Webinar: If a case includes both personal injury and credit hire, the whole case proceeds via DCP, so would not be subject to mandatory mediation under the OCMC pilot.

Q: When does OCMC become mandatory for legal reps?

From 28 July 2025, OCMC becomes mandatory for all legal representatives issuing specified money claims under PD 51R.

From that date:

- Paper pleadings sent to CTSC, CNBC or local courts will be rejected and returned.
- Firms must be registered via MyHMCTS using their SRA number.
- Where insurer-signed statements of truth are submitted on paper, these must be clearly labelled to avoid rejection by the local Courts.

Q: Will these changes apply only to new claims issued after 28 July?

Yes. HMCTS has now confirmed that only cases issued via OCMC on or after 28 July will fall within the extended scope of the mandatory mediation pilot.

Q: Is this part of a permanent change?

No - this is a 12-month pilot. The Civil Procedure Rule Committee (CPRC) will review its effectiveness, followed by public consultation, before deciding on any permanent implementation. The mainstream CPR and costs rules remain unchanged for now.

Q: Could claimants avoid mandatory mediation by issuing via MCOL?

Possibly. MCOL remains unchanged and does not require mandatory mediation. Claimants - particularly those with bulk issuing capability - may seek to circumvent mediation by issuing through MCOL instead of OCMC. However, HMCTS has stated its intention to phase MCOL out in the longer term due to its outdated infrastructure.

Question from the Webinar: MCOL isn't just for bulk issue - it can be used more generally but is predominantly used for bulk claims because OCMC currently lacks bulk issue functionality.

Q: What does the mediation involve?

- Takes place after the Directions Questionnaire (DQ) is filed (alongside the Defence).
- No court fee is payable for mediation.
- Mediation will be a "shuttle" telephone appointment, typically 2 hours, with the mediator calling each party separately.
- Appointment blocks run from 8am to 5pm, e.g., 8-10, 9-11, up to 3-5.
- No disclosure or exchange of evidence occurs prior to mediation; it relies solely on the claim particulars and defence.

Q: Does the client or insurer need to be available for the mediation call?

Still unclear. HMCTS has not confirmed whether claimants or defendants (or their insurers) must be available during the mediation. Legal representatives will likely lead the process, but authority to settle may be needed, especially in liability disputes.

Question from the Webinar: In the cases we've seen so far, there has not been a requirement for insurers/policyholders/claimants to be available during mediation. Though we await formal confirmation from HMCTS.

Q: Are liability disputes in scope for mediation?

Yes. Mediation applies to any defended claim under £10k issued via OCMC, including where liability is disputed. It is not restricted to quantum-only disputes.

Q: Are there any sanctions for failing to attend mediation?

Sanctions are at the discretion of the court, expected to fall under PD 51ZE but may fall under PD 51R as part of the ongoing pilot. No automatic penalties have been specified. CPR 27.14 (costs in small claims) has not been amended.

Question from the Webinar: In the claims we've observed so far, we've not seen refusals to engage with mediation, and no sanctions have yet been applied in early-stage pilot cases.

Q: Will the GTA ADR scheme affect this?

No. The ABI GTA pilot involves arbitration, which we understand will be mandatory should settlement not be reached within the usual GTA timescales. We further understand that the outcome of the arbitration will be final, and binding. Therefore, any GTA claim which is eligible for, and is subject to, the arbitration pilot will reach a final determination via that process and will not therefore be subject to litigation or mediation. All other credit hire claims (whether ABI GTA or otherwise) which are not eligible for arbitration and are not settled at the pre-litigation stage may be pursued to litigation in the usual way and will then be subject to mandatory mediation.

Q: What outcomes can be expected from the mediation process?

HMCTS has not published guidance on outcomes. However, mediation is non-binding and mediators are not expected to impose settlement figures. Their role is to facilitate dialogue and narrow issues between the parties.

Q: Can nomination of a law firm be avoided in the first instance, where an insurer wishes to evaluate if a claim should be settled before nominating?

We are not aware of an avenue for this currently. The only workaround would be for the claim to be issued and served against the policyholder where a panel nomination has not been communicated, during which time a settlement can be explored or a solicitor instructed. Service of proceeding via the OCMC does however provide your nominated panel representatives with immediate visibility of the proceedings reducing risk considerably.

Q: What about MCOL?

MCOL remains unchanged in July 2025, but as above, it does not currently require mandatory mediation. HMCTS has indicated it will be phased out in due course.

Q: Will the Practice Directions be published before go-live?

It is unlikely. HMCTS expect the updated PD 51R and PD 51ZE to be published on or just after 28 July. The delay is due to Parliamentary recess delaying ministerial approval.

Q: Do we expect a delay to implementation?

Question from the Webinar: Unlikely. In discussions with the MoJ this week, they appeared committed to launching on 28 July as planned.

Digital Process Practicalities

Q: What's the difference between OCMC and DCP?

- OCMC (PD 51R): For specified money claims (e.g., vehicle damage, credit hire).
- DCP (PD 51ZB): For unspecified claims (e.g., personal injury, EL/PL).

Only OCMC claims are currently affected by mandatory mediation.

Q: What is the Query Management Tool and how effective is it?

- The tool is now available to all users but has gaps, including:
 - Only claimants can currently notify settlement or discontinuance.
 - A follow-up email to the court is still required, causing duplication and delays.

Outstanding Questions for MoJ/HMCTS

We continue to liaise with MoJ and HMCTS and have flagged the following outstanding issues:

1. How many mediators will be in place from 28 July, and is there a contingency for backlogs?
2. Can users filter case lists by mediation status to help track in-scope claims?
3. Will court staff accept insurer-signed statements of truth on paper issue, and how should these be labelled?
4. Can defendants with a counterclaim avoid mediation by triggering a paper-based journey? Will counterclaims remove a case from OCMC and thus avoid mediation? Our understanding is that such claims involving counter claims will naturally fall out of the OCMC digital platform and into the traditional paper journey thus circumventing the mediation pilot.
5. What is the potential impact on claims containing allegations of fraud?

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