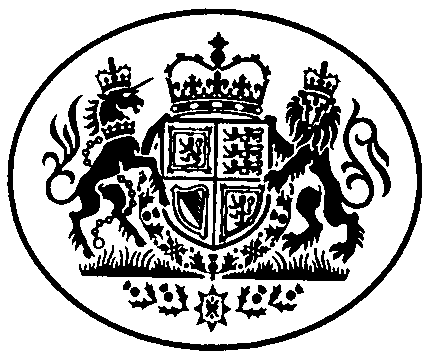
**<<cs\_t****\_Scot\_159>>**

**<<##** 159 Information Pack amended for JM **##>>**



Information pack for Judicial Mediation (JM)

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1. Background

**Summary of Judicial Mediation**

The strategic objectives of the Ministry of Justice include the following key aim:

‘The provision of early advice and support to enable disputes to be resolved out of court or tribunal wherever possible.’

Mediation is a process in which disputing parties seek to build an agreement in order to resolve the dispute, with the assistance of a trained mediator acting as an impartial third party. In the case of the ET judicial mediation scheme, the mediator is a specially trained Employment Judge (hereafter the “Judicial Mediator”). Judicial mediation will usually only be offered where the case concerns at least one complaint of discrimination and would take at least three days to hear if it went to a full Hearing on the merits although exceptionally it may be offered in longer unfair dismissal cases.

At the mediation meeting the Judicial Mediator helps identify the issues in the dispute, but does not make decisions nor give opinions. The role of the Judicial Mediator is to attempt to facilitate an outcome to the dispute between the parties. Rooms are made available for the use of the parties and refreshments provided. The approach is more informal and less confrontational than a Hearing, whilst still retaining the authority which derives from the presence of an Employment Judge.

If JM is successful, the case is usually settled by way of a formal agreement drafted by Acas or by legal representatives and the need for a hearing is dispensed with. If unsuccessful, the case is heard in the usual way. The Judge conducting the mediation would not conduct any subsequent hearing.

Special procedures have been put in place to ensure that there is no conflict with Acas’ statutory role. JM is an alternative to a Hearing, not to Acas conciliation. JM and Acas conciliation are complementary and can and do run in conjunction with each other to resolve a dispute.

While JM is ongoing, no further action will be taken in the case with the exception of listing the case for a Hearing. This takes place in the usual way and is not delayed by the JM.

**2.**. **Administrative Arrangements**

1. The following sets out the main arrangements (it is not an exhaustive list) between the Employment Tribunals Administration and the Judiciary for the Administration to support the Judicial Mediation Scheme (JM) in Scotland:

2. A JM Spreadsheet will be created in each office. The Office Manager will be responsible for recording relevant data on that sheet and forwarding a copy of it at the end of every month to the President, Vice-President and Secretary of ET (Scotland).

3. When the agenda is sent out for the first preliminary hearing (“the first PH”) in a case which includes at least one discrimination jurisdiction (except Equal Pay), it should also include a copy of the JM – Note for Parties.

4. When a file is being prepared for referral to an EJ to undertake the first PH in such a case, a Form A will be put on the front of the case file by the caseworker together a copy of the JM – Note for Parties and 1 copy of Annex 2 of the ET-Acas JM Agreement (Criteria for selecting cases).

1. At the first PH held in the case an EJ will consider whether the case might be suitable for JM. If s/he decides it is not, the case will proceed as usual, with the PH note being typed and normal listing procedures followed etc. The EJ will complete Form A to state that JM was not raised and set out why it was not considered appropriate. Form A will be put in the file by the EJ, where it will be retained marked ‘for information’. If the EJ does raise the possibility of JM being offered with the parties but they do not want to consider such a course then Form A will be completed by the EJ to record that fact and the file will be passed back to the clerk who dealt with the first PH who will be responsible for passing the PH note/any orders for typing in the usual way and acting on any listing instructions in respect of the “normal” progress of the case. Form A should be retained in the case file, marked “For information”.

**Parties given time to consider if JM option they wish to pursue**

6 In the event that the EJ has asked parties at the first PH if they would be interested in JM and they wish time to consider the matter:

* The EJ will complete Form A insofar as possible and refer the file back to the PH clerk with a direction that the PH note/orders be prepared in the usual way, any listing directions are followed and that standard letter JM 1 (Scot) is to be issued. A B/F will be set for 8 days from the date on which the JM1 letter was sent to parties.
* The clerk will arrange for the case to be entered on the JM spreadsheet by the Office Manager so that information can be recorded about it.
* If neither/no party replies to the letter within the timescale the file will be referred back to the EJ who dealt with the first PH for any further directions to be made. An email should be sent to Acas stating that no response was received back from parties relating to mediation following the first PH and that the case will now proceed down the judicial determination route.
* In the event that at least one of the parties does reply and states they are interested within the time specified, but not all parties reply, then standard letter JM 2 (Scot) should be issued to the other party/parties and JM3 (Scot) should be issued to the party who has replied.
* If no reply to JM 2 (Scot) is received within the time specified then standard letter JM 4 (Scot) should be issued to all parties and the file passed back to the EJ who dealt with the first PH for any further directions regarding progression of the case. An email should be sent to Acas stating that at least one of the parties has failed to notify us of interest in judicial mediation and that the case will now proceed down the judicial determination route.
* In the event that at least one party replies at any point after JM1 (Scot) has been issued and states they are not interested in JM then JM5 (Scot) should be issued to all parties. An email should be sent to Acas stating that at least one of the parties has stated they are not interested in judicial mediation and that the case will now proceed down the judicial determination route.

**Referral to Vice-President to consider offer of JM**

6. If, at the first PH or after further correspondence, all parties state that they are interested in JM the file should be referred to the Vice-President,( including a copy of Form A) who will decide if JM is to be offered. Note that an EJ may ask the clerk at any time to send letter JM1 A to parties in an unfair dismissal case and ask if they would be interested in JM. If both parties are interested then EJ will complete Form A, which is passed to the Vice-President who will decide if JM is to be offered.

7. If the Vice-President decides that JM is to be offered she will appoint a Judicial Mediator (who may or may not be the EJ who dealt with the First PH) and refer the file to the relevant Office Manager who will appoint a JM clerk who will create a JM file and thereafter deal with correspondence on the case and liaise with listing regarding the fixing of the telephone ‘Mediation Arrangements’ PH which will be conducted by the Judicial Mediator. The Office Manager at that stage will enter the case on the JM spreadsheet (if this has not already been done) and record that judicial mediation has been offered.

8. If JM has been offered and accepted, all correspondence regarding that case must be forwarded to the nominated JM clerk who will assess whether it related to the mediation process or is more generally case related. In the event that it not obviously related only to the mediation then the correspondence must be referred to the Mediator or the VP. Only if the correspondence is clearly not related to the mediation should it be passed to the allocated case worker or another Judge

9. All documentation relating to the JM must be kept in a file which is separate from the main case file. The mediation file must be stored separately from the case file. This is necessary because the mediation process is confidential and documentation relating to it cannot be available for or referred to in general case management matters or at hearings.

10. Once a Judicial Mediator has been appointed to the case, issues related to the mediation process must only be dealt with by that Judge.

11. During the Mediation process normal Case Management activity will be kept to a minimum but the case will be listed for a final hearing or preliminary hearing in the normal way and in the usual timescale, since such may be necessary if the JM is not successful. Once the mediation is concluded, the Judicial Mediator must not have any further involvement in the case.

12. The meeting at which the JM takes place will be recorded as a preliminary hearing and shown on the Cause List as such.

13. A trained JM clerk will be allocated to the JM meeting (i.e. the PH at which the actual mediation process takes place) and must be accessible at all times during normal working hours whilst the mediation process is ongoing. The start time for a JM meeting may well be different from a normal hearing and there may be breaks at non-standard times.

14. On the day/days of the mediation, appropriate facilities will be required. The minimum will consist of one main room and at least two break-out rooms for the respective parties which must be for their exclusive use. In addition, tea, coffee and water will be provided. The precise arrangements will depend on facilities available in a particular office. However at each location the layout of the rooms used will be as informal as possible and flip charts will be made available.

15. The Secretary will arrange for a report to be produced at the end of each month which combines the JM spreadsheet data from each office which will be copied to the President, Vice-President and Area Manager.

16. Interaction with Acas is governed by the ET/Acas Judicial Mediation Agreement. This sets out what information is to be provided to Acas and the timescale for its provision.

**3**. **The Role of the Judicial Mediation Clerk**

The interaction between the parties and between them and the Judicial Mediator is somewhat different to that which occurs at an ET hearing. The physical layout of the space used and general style of approach is also rather different, with a more informal approach generally being taken. In the judicial mediation context there is the added complication of ensuring that once judicial mediation has been offered and accepted, there is a “firewall” between the mediation process and that which pertains to the management of the legal case which will still subsist in the background, given a claim and response have been lodged and there may ultimately still be a need for a Hearing if the dispute is not resolved by mediation.

While all ET staff who have been trained to clerk cases will have many of the skills necessary to act as a clerk in a judicial mediation, the differences between the two processes and the specific requirements of the judicial mediation scheme are such that a specialist role of Judicial Mediation (JM) Clerk has been created. A JM Clerk will only be appointed in the case once it is clear that all parties wish to engage in mediation and the Vice-President has decided that an offer of mediation should be made.

Job Card (Work instructions)

Judicial Mediation Clerk Job Card

1. If you are allocated the role of JM Clerk you will receive the case file including Form A.
2. .You should create a JM file which will include a copy of the ET1, ET3, Form A, any note prepared after the first PH in the case and any other document identified by the Vice-President or the EJ who dealt with the first PH. The file should clearly state the name of the Judicial Mediator dealing with the mediation. The case file should be passed back to the caseworker allocated to it while you retain control of the Mediation File. Record in the Ethos comments box the identity of the Judicial Mediator and your name as the JM clerk.
3. You should send standard letter JM 6 (Scot) to the parties and pass the file to listing so that the Mediation Arrangements hearing (which will be done as a telephone PH, and will therefore be private) can be arranged.
4. You should email a copy of JM6 (Scot) to the dedicated Acas mediation In-Box for information.

5. Thereafter all correspondence on this case will be referred to you as nominated JM clerk. If the correspondence is clearly and directly related to the mediation the correspondence should be directed to the Judicial Mediator – no other judge should have sight of it. If you have any doubt at all about whether the correspondence relates to the mediation, refer it to the Judicial Mediator or the Vice-President. Do not refer it to any other EJ. (This is an extremely important part of your role because it is critical that the JM process is kept entirely separate from the progress of the case in general while at the same time the confidentiality of the mediation process is maintained.) **Ensure that the judicial mediation file is kept separate from the case file.**

6. At the JM Arrangements telephone PH the EJ who has been appointed as Judicial Mediator will identify the dates to be fixed for the JM meeting in discussion with the parties and may ask the parties to provide further information or take other action necessary for the purpose of progressing the JM process. Thereafter the Judicial Mediator will refer the file back to you, as the JM clerk, to take the following steps:

:

* liaise with listing to ensure the JM meeting is listed for the identified dates – to be listed as a PH on ETHOS
  + send a Notice (JM9) formally notifying the parties of the date of the JM meeting
  + arrange for any documents (such as a PH note) to be typed and issued as directed by the Judicial Mediator (unlike other PH notes, a note of what happens at JM Arrangements PH should not be sent to Acas unless the Judicial Mediator asks you to do so)
  + any other action identified by the Judicial Mediator
* annotate the comments box of ETHOS stating JM listed on relevant date

7. On the day of the Judicial Mediation:

* ensure tea, coffee and water are available in the rooms to be used by the parties
* arrange the room to the Judicial Mediator’s requirements
* be available from 9.30 am and throughout the day to assist the Judicial Mediator if required
* check periodically (e.g. at lunchtime) that there are adequate supplies of refreshments available for the parties
* prepare the Report ( JM10) so far as possible

8. After the JM has been held the Judicial Mediator will complete the Report & place this in the JM file. This should not be copied to Acas. When the JM file is returned the JM Clerk should:

* + take whatever action is requested by the Judicial Mediator (this may involve sending an email to the Acas mediation inbox to request the services of an Acas conciliator or sending draft wording of a settlement agreement for use in a COT3 or compromise agreement)
  + copy the completed Report to the Office Manager and the Vice President
  + send an email to the Acas mediation inbox advising of the outcome
  + annotate the file for destruction after 12 months

9 If the JM has been successful record the outcome on ETHOS a possible settlement

**4. Timelines for JM**

**JUDICIAL MEDIATION TIMELINES**

|  |  |  |
| --- | --- | --- |
| **EVENT** | **NORMAL TIME FROM LAST EVENT** | **NORMAL CUMULATIVE TIME FROM RECEIPT OF ET1** |
| **Receipt of ET1** |  |  |
| **Receipt of ET3** | **Within 28 days** | **4 weeks** |
| **ET3 referral to EJ** | **1 week** | **5 weeks** |
| **Listing of PH for case and holding of PH** | **4 weeks** | **9 weeks** |
| **Expression of interest in JM by parties** | **1 week** | **10 weeks** |
| **Referral of interest in JM to VP** | **1 week** | **11 weeks** |
| **Offer of JM in writing** | **1 week** | **12 weeks** |
| **JM Arrangement PH** | **2 weeks** | **14 weeks** |
| **Holding of JM** | **3/4 weeks** | **17/18 weeks** |

FORMS

5. JM Note to Parties

Judicial Mediation – Note to Parties

Explanatory Note

1. Mediation is a process whereby disputing parties seek to build an agreement in order to resolve the dispute, with the assistance of a trained mediator acting as an impartial third party. It offers an alternative way of resolving a dispute to that provided by going through a court or tribunal hearing. It is one type of what is often referred to as Alternative Dispute Resolution. The Government is keen to encourage citizens to explore alternatives of this type. With that in mind a Judicial Mediation service has been set up within the Employment Tribunal system in Scotland (and in England and Wales).
2. In the Employment Tribunal context, Judicial Mediation involves bringing the parties in a case together for a Mediation Meeting which will take the form of a preliminary hearing in private. This Mediation meeting is facilitated by a trained Employment Judge (the “Judicial Mediator”), who will remain neutral and try to assist the parties in resolving their dispute. The Judicial Mediator will help to identify issues in dispute, but will not make a decision about the case, give legal advice or give an opinion on the merits of the case. The role of the mediator is to help the parties find ways to resolve their dispute by mutual agreement. Resolution is not limited to the remedies available at a hearing.
3. Whilst Judicial Mediation is part of the process of resolving employment disputes, which provides an alternative to a Tribunal Hearing, it is not an alternative to Acas conciliation. Acas and the Judiciary of the Employment Tribunals are working together to ensure the option of Judicial Mediation is available to parties while at the same time maximising the opportunity for Acas to perform its conciliation role. At no time will any statutory duty placed on Acas be compromised by the process, and at all times Acas and the Judiciary will remain independent of each other.

4. Judicial mediation is available only to parties who have a dispute which involves an element of discrimination or which is a complex unfair dismissal case **and** which we estimate is likely to take three or more days to resolve at a formal hearing.

5. An important factor in assessing suitability may be whether there is an ongoing employment relationship.

6. Whilst cases suitable for Judicial Mediation will be identified in a number of different ways, it is expected that the primary way that they will be identified is by a Judge at a preliminary hearing being held generally in respect of the case concerned. At that preliminary hearing a case that may be suitable for Judicial Mediation will be identified; the parties advised of the possibility of Judicial Mediation being offered; their interest in receiving such an offer, or not as the case may be, identified and recorded; and then normal Case Management Orders and Directions made. The dates for a hearing will also normally be fixed, even if parties express interest in Judicial Mediation. This ensures that a hearing can take place if needs be in the same timescale as that which would apply even if Judicial Mediation was not taking place.

7. At that stage if the parties indicate their willingness to consider an offer of Judicial Mediation, the file will then be passed to the Vice-President who will decide whether Judicial Mediation should be made available. An offer of Judicial Mediation will normally be made by letter. .A Judicial Mediation Arrangements preliminary hearing will be organised shortly thereafter at which timetables for the Mediation will be set, a sist (freeze) or variation of any other Case Management Orders which have already been made considered and the dates for the Judicial Mediation agreed. It is very important that parties/their representatives make themselves available to take part in this telephone Mediation Arrangements preliminary hearing at the earliest opportunity. (If Judicial Mediation is not to be offered, parties will receive a letter to this effect.)

8. There is no obligation on a party to agree to Judicial Mediation and no adverse inference will be drawn against a party which does not wish to engage in the process. For Judicial Mediation to have a good prospect of success the parties must engage in the process voluntarily and with a positive motivation to resolve their dispute without a judicial determination.

9. Assuming that the offer of Judicial Mediation is accepted by all parties, the matter will then proceed to such Mediation, which is anticipated as ordinarily taking no more than 1 day.

10 Mediation will be carried out by an Employment Judge trained in Mediation. The Mediation technique that will be adopted and applied will be facilitative. While there is no rigid structure in place to determine how a mediation will be conducted generally during the course of the day there will be some points when the Judicial Mediator will speak to each party separately in the room which will be provided for their use while at other times the mediator may bring parties together in a room reserved for joint meetings so that discussions can take place in the presence of all concerned.

11. Judicial Mediation will be held in private and in circumstances which are entirely confidential. **The parties will be required to give an undertaking that discussions and events at the Judicial Mediation will remain confidential and will not be referred to at any subsequent Hearing**. The Judicial Mediator will play no further role in the case if it proceeds to a Hearing. If a Hearing does take place, the Employment Judge/Tribunal will not have access to the Mediation file and will not be able to discuss what happened at the Mediation with the Judicial Mediator.

12. At the telephone Mediation Arrangements preliminary hearing, which takes place after an offer of Judicial Mediation is made, the Judicial Mediator will fix the dates for Judicial Mediation, discuss the process which will be followed and the range of issues which will require to be dealt with at the mediation. The Judicial Mediator will have been provided with a copy of the Claim and Response Forms, any Note and Orders arising from the preliminary hearing (at which Judicial Mediation was raised) and any other documents parties agreed should be provided at this stage to the Judicial Mediator. The issues which may be identified as requiring to be dealt with at mediation may be wider than those which could be determined by a Tribunal at a full Hearing. Agreement will also be reached on who should be present at the Mediation (which must include people capable of making decisions); and any requirements of the parties in respect of such Mediation.

13. There will be separate files opened for the JM and for the case itself. Only the Judicial Mediator will have access to the mediation file. It is therefore important that any correspondence relating to the JM deals only with that topic and does not include information /requests relating to the management of the case, outwith the context of mediation. Similarly, any correspondence about the case in general should not include information/requests which relate to the JM.

14. The Judicial Mediator may contact Acas to reactivate conciliation either during or at the end of the process of Judicial Mediation. This may be by a telephone conference in the presence of the parties (with their prior consent) with an appropriate Acas designated officer.

15. Parties may wish to take advice from a solicitor or advice agency (such as the CAB) in connection with the option of Judicial Mediation. Representatives can accompany parties to a mediation meeting if desired, albeit the role they may play is likely to be different from that which would be expected at a traditional hearing.

16. If there are any matters of concern or any explanation required then please write to the Vice-President for clarification.

6. Form A

**Mediation Form A** Case Number………………………….

Case Name ……………………………

***First part for completion by PH Employment Judge***

This claim involves discrimination or unfair dismissal and is likely to last three or more days at Hearing.

The parties were not asked if they would be interested in judicial mediation. (If that is

so, please explain why).

The parties have been asked whether, if selected, they would be interested in taking part in judicial mediation, and they are:

Interested. Not interested\*

\* If one or more parties are not interested in mediation, it would be helpful for us to know why. Please note reasons in the box below and place the form at the front of the file.

**Answer the following questions if parties are interested in judicial mediation:**

How long do you estimate this case would take to hear at a Merits Hearing?

Why do you consider this case is suitable for mediation (include, but do not limit yourself to considering the criteria and factors set out in annex 2 to the ET-Acas Mediation Agreement)?

Are there any factors which you are aware of which would complicate the mediation process or increase the difficulty of obtaining a mediated settlement in this particular case ( bear in mind the factors identified in annex 2 of the ETS-Acas agreement and include here any preliminary legal issues which affect the case)?

***Second part for completion by Vice-President***

Does this case meet the selection criteria for judicial mediation?

Yes No

Have you decided to offer the parties judicial mediation?

Yes No

If no, specify reasons

Was further information sought from PH EJ before decision made?

Yes No

If so, what relevant information was provided

Record below any other relevant information about this case

State name of Judicial Mediator appointed to deal with this case:

Date referred back to administration:

*Third part for completion by Office Manager*

State name of Judicial Mediation Clerk appointed

Date:

1. 7. For administrative information: Frequently asked questions

**Q**: What is Alternative Dispute Resolution (ADR)?

**A**: This term covers a variety of methods which can be used to resolve a dispute without the need for a hearing before a court or tribunal. The classical process for resolving disputes is litigation, involving either a court or tribunal hearing, where one party is deemed wrong and the other right. ADR offers alternative approaches. Judicial Mediation is one such approach.

**Q.** What is mediation?

**A**: Mediation is a process whereby disputing parties seek to build an agreement in order to resolve the dispute, with the assistance of a trained mediator acting as an impartial third party. In the case of Judicial Mediation, the third party is a trained Employment Judge. When conducting a mediation the Judge will not express any view on the merits of the case or be drawn into providing legal advice to parties.

**Q**: How are cases selected for judicial mediation?

**A**: Judicial Mediation is only a possibility in a discrimination case or an unfair dismissal case which is estimated as likely to last three days or more if it went to a merits Hearing. As now, a preliminary hearing (PH) before an Employment Judge will take place (the “first PH”). That EJ will assess whether the case fulfils the mediation criteria in terms of length and the other factors that may be relevant (more information can be found in Annex 2 of the ET-Acas Agreement on Judicial Mediation). The first PH is usually done in person. An unfair dismissal case may be identified by an Employment Judge at any time as a PH will not be routinely held in such cases.

If the EJ thinks the case may benefit from mediation s/he will ask the parties if they would be interested in that option (If parties need a few days to consider the matter, they will be given that time). If they are interested the Vice-President will consider information about the case and decide whether mediation can be made available.

**Q**: How will parties know what to expect on the day the judicial mediation is due to take place?

**A**: Parties will be issued with an explanatory note which provides them with information on JM in advance of the first PH. They can also ask questions at the PH that will be fixed to make arrangements for the judicial mediation

**Q**: How will we ensure Acas are kept informed of the progress of judicial mediation?

**A**: A Mediation Agreement has been developed between ET (Scotland) and Acas. It sets out what information will be passed between the ET and Acas and when that will happen. There is a special Acas Mediation email box to which all documents and other communications should be sent (**SCOT-judicialmediation@acas.org.uk**). Acas conciliation will be ongoing and will run alongside mediation. It is important that CMD records are sent to this email box within two days by the nominated mediation clerk as well as the hard copy being passed to Acas in the usual way. The work associated should not be too onerous as the volume of mediation cases is likely to be small, approximately 6-10 cases a month across Scotland.

**Q**: How important is it for the tight timings in the Judicial Mediation Timelines document to be adhered to?

**A**: It is very important for us to keep to these timelines. Nominated judicial mediation clerks will play an important role in ensuring these are achieved.

**Q**: How confidential is the process?

**A**: The process is entirely confidential. The parties may say something in the mediation which may not be helpful to their case if it subsequently goes onto a hearing. The Judicial Mediator cannot conduct the hearing nor do any case management associated with that case. If possible, the judicial mediation clerk should not clerk any hearing that subsequently takes place in the case. ETHOS will require to be marked appropriately.

**Q**: How does mediation work?

**A**: The role of the mediator is to assist the parties in identifying a solution to the dispute which is acceptable to all concerned. Mediation is sometimes described as a process that can lead to a ‘win-win’ situation rather than the ‘win-lose’ which generally characterises litigation. The process of mediation usually involves shuttle diplomacy between the parties. By choosing positive statements, the mediator focuses on areas of agreement between the parties and then brings them together to resolve the more contentious issues. An essential element is developing and maintaining trust as without this the process will fail. If trust is lost then the Mediator will withdraw. Mediation can be an emotional experience for parties; there may be times in the process when the parties have been together but go back for a break to their own separate rooms for a variety of reasons.

**Q**: How many rooms are required for mediation?

**A**: A room is required for the mediation plus a breakout room each for each party. This needs to be entirely private and able to accommodate 4/5 people. If at all possible, the main room shouldn’t be a hearing room as this is not conducive for mediation because mediation is more informal than a hearing. If there is no option but a hearing room the furniture should be reorganised so that parties can sit round a table. The set up needs to be as relaxed and non-confrontational as possible. We recognise that space is at a premium in a lot of offices so the judiciary and administration will need to work together to identify suitable rooms that can be used. If need be, with the permission of the Employment Judge concerned, judicial offices may be used.

**Q**: Can cases requiring an interpreter be considered for mediation?

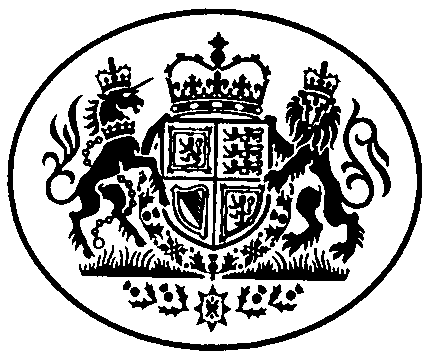
**A**: Yes, it is possible but can be difficult. The practicality of conducting the mediation with an interpreter is something that will be considered by the Vice-President.

# 8.

# ANNEX

# LETTERS

**EMPLOYMENT TRIBUNALS (SCOTLAND)**



|  |  |
| --- | --- |
|  | Central Office  Eagle Building  215 Bothwell Street  GLASGOW, G2 7TS  Tel: 0141 204 0730  Fax: 0141 204 0732  DX: 580003 –Glasgow 17  e-mail:- Glasgowet@ets.gsi.gov.uk  [www.employmentribunals.gov.uk](http://www.employmentribunals.gov.uk/) |

Our Ref:

Your Ref:

Dear

**Case name and number**

**Judicial Mediation**

**Confirmation of Interest Required**

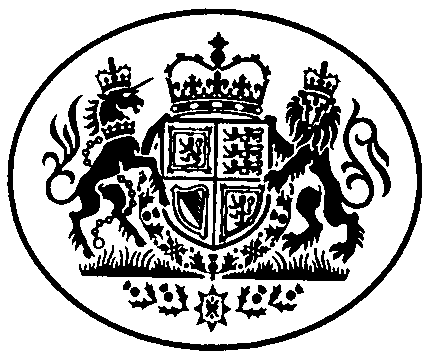
At the preliminary hearing which you recently attended parties indicated that they wished some time to consider whether they wanted the above case to be put forward to the Vice-President with a request that judicial mediation be made available.

Please confirm to this office by [insert date 7 days after the date of the letter] whether or not you are interested in pursuing the possibility of judicial mediation.

**Yours sincerely etc**

**JM1(SCOT) 7 days to consider**

**EMPLOYMENT TRIBUNALS (SCOTLAND)**



|  |  |
| --- | --- |
|  | Central Office  Eagle Building  215 Bothwell Street  GLASGOW, G2 7TS  Tel: 0141 204 0730  Fax: 0141 204 0732  DX: 580003 –Glasgow 17  e-mail:- Glasgowet@ets.gsi.gov.uk  [www.employmentribunals.gov.uk](http://www.employmentribunals.gov.uk/) |

Our Ref:

Your Ref:

Dear

**Case name and number**

**Judicial Mediation**

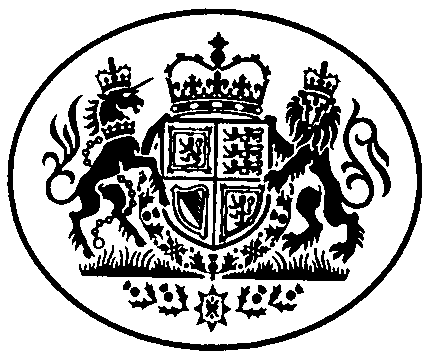
**Confirmation of Interest Required**

An Employment Judge has reviewed your case and considers it may be suitable for judicial mediation. An information note to parties is enclosed that explains the scheme.

Please confirm to this office by [insert date 7 days after the date of the letter] whether or not you are interested in pursuing the possibility of judicial mediation. If both parties are interested, the file will be referred to the Vice-President who will decide whether judicial mediation can be offered.

**Yours sincerely etc**

**JM1 A(SCOT) UDL 7 days to consider (enclose JM note to parties)**



EMPLOYMENT TRIBUNALS (SCOTLAND)

|  |  |
| --- | --- |
|  | Central Office  Eagle Building  215 Bothwell Street  GLASGOW, G2 7TS  Tel: 0141 204 0730  Fax: 0141 204 0732  DX: 580003 –Glasgow 17  e-mail:- Glasgowet@ets.gsi.gov.uk  [www.employmentribunals.gov.uk](http://www.employmentribunals.gov.uk/) |

Our Ref:

Your Ref:

Dear

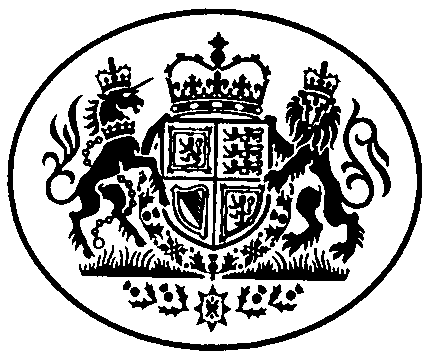
**Judicial Mediation**

**Urgent response required re interest**

I refer to the letter from this office dated *[insert date*] in which you were asked to confirm whether or not you were interested in pursuing the option of judicial mediation. The other party in the case has indicated an interest. You must write to us immediately (and certainly by no later than [insert date 5 days later]) to let us know whether or not you wish to pursue this option. If nothing is heard from you by that date the option of judicial mediation will no longer be a possibility and the case will progress to a judicial determination in accordance with our normal procedures.

Yours sincerely etc

JM2(SCOT) Follow up if no reply from 1 party



EMPLOYMENT TRIBUNALS (SCOTLAND)

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| --- | --- |
|  | Central Office  Eagle Building  215 Bothwell Street  GLASGOW, G2 7TS  Tel: 0141 204 0730  Fax: 0141 204 0732  DX: 580003 –Glasgow 17  e-mail:- Glasgowet@ets.gsi.gov.uk  [www.employmentribunals.gov.uk](http://www.employmentribunals.gov.uk/) |

Our Ref:

Your Ref:

Dear

Case name and number

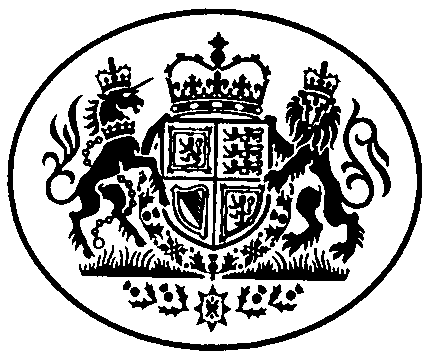
**Judicial Mediation**

**Response awaited from other party**

Thank you for notifying us that you are interested in being offered the opportunity to take part in judicial mediation. We have not yet had a response from the other party in the case. A letter has been sent to them, advising that they must let us know within five days if they are interested in the case being put forward for consideration. We shall let you know the position at the end of that period.

Yours sincerely,

JM3(SCOT) Interested party-delay explained



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Our Ref:

Your Ref:

Dear

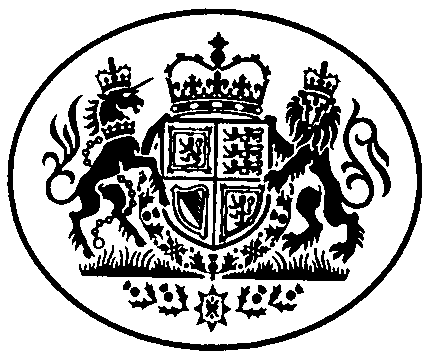
Case name and number

**Judicial mediation not pursued**

At least one party in the case has failed to inform us of whether they would be interested in pursuing judicial mediation as an option. In these circumstances, the option of mediation will not be pursued and the case will be progressed in accordance with our normal case related procedures. Case management orders, directions and arrangements for hearings previously made will therefore continue to apply.

Yours sincerely

JM4(SCOT)NO JM, failure to state interest

****

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

|  |  |
| --- | --- |
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Our Ref:

Your Ref:

Dear

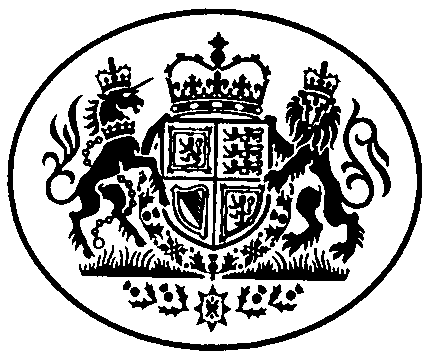
Case name and number

**Judicial Mediation – Option not pursued**

At least one of the parties has indicated that they are not interested in pursuing the option of judicial mediation. In these circumstances the option of mediation will not be pursued and the case will now be progressed in accordance with our normal case related procedures. Case management orders, directions and arrangements for hearings previously made will therefore continue to apply.

Yours sincerely,

JM5(SCOT)NO JM, no interest

****

EMPLOYMENT TRIBUNALS (SCOTLAND)

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| --- | --- |
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Our Ref:

Your Ref:

Dear

Case name and number

**Offer of Judicial Mediation**

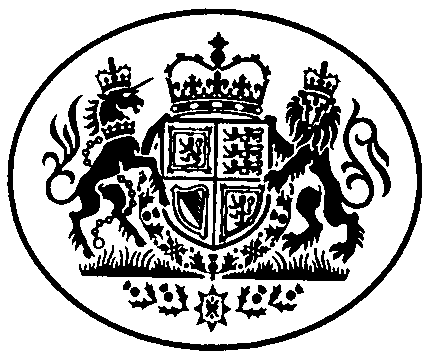
The Vice-President is pleased to inform you that she has decided to make judicial mediation available in this case.

A member of staff from this office will be in touch with you shortly to make arrangements for a Judicial Mediation Arrangement preliminary hearing (PH) which will be conducted by the Judicial Mediator who will be dealing with the mediation.

It is important that this PH takes place in early course and the Vice-President trusts you will do your utmost to be available at the earliest possible opportunity.

Yours sincerely,

JM6(SCOT) JM offer



EMPLOYMENT TRIBUNALS (SCOTLAND)

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Our Ref:

Your Ref:

Dear ,

Case name and number

**JUDICIAL MEDIATION**

I understand that you expressed interest in an offer of judicial mediation. Thank you for your interest.

Unfortunately, the Vice-President was not able to offer you the opportunity of judicial mediation in this case. She appreciates that this is likely to be disappointing news but hopes that you will understand that it is not possible to make judicial mediation available to all those who have expressed an interest.

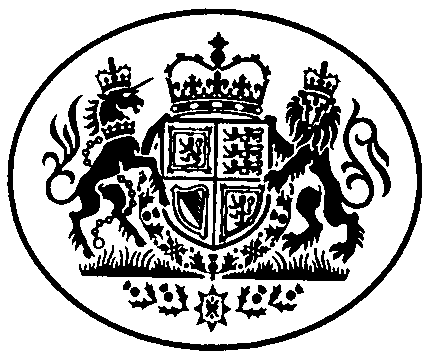
Case management orders, directions and arrangements for hearings previously made will therefore continue to apply.

Yours sincerely

cc Acas

JM7(SCOT) JM refusal

**EMPLOYMENT TRIBUNALS (SCOTLAND)**



|  |  |
| --- | --- |
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Our Ref:

Your Ref:

Case name and number

## NOTICE OF HEARING

## Judicial Mediation

## Case Management Discussion by Telephone

The Vice-President having offered parties the opportunity to participate in a judicial mediation with a view to resolving the dispute between them, has directed that there should be a Judicial Mediation Arrangement preliminary hearing which will be conducted by the Employment Judge who has been appointed as Judicial Mediator, to:

(a) Fix the date for the Judicial Mediation

(b) Make appropriate arrangements for the conduct of the Judicial Mediation;

(c) Give any other directions which may be necessary for the fair and expeditious disposal of the case.

**The preliminary hearing will be conducted by a Telephone Conference call at *00:00* am on** *date***.**

**Please provide the Tribunal with your direct dial telephone numbers if you have not already done so.**

If you intend to refer to documents during the conference call, copies must be sent to the Tribunal either in an envelope or under cover of a fax or e-mail header sheet marked “Urgent for Telephone Judicial Mediation Arrangement PH on ***insert* *date***”.

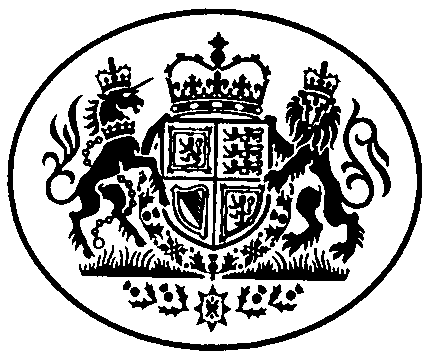
The preliminary hearing has been given a time allocation of one hour. If you feel that this is insufficient please inform this office in writing immediately, stating why you consider a longer period of time is required.

Signed

Dated

cc: Acas

JM8(SCOT) JM Arrangement PH

****

**EMPLOYMENT TRIBUNALS (SCOTLAND)**

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| --- | --- |
|  | Central Office  Eagle Building  215 Bothwell Street  GLASGOW, G2 7TS  Tel: 0141 204 0730  Fax: 0141 204 0732  DX: 580003 –Glasgow 17  e-mail:- Glasgowet@ets.gsi.gov.uk  [www.employmentribunals.gov.uk](http://www.employmentribunals.gov.uk/) |

Our Ref:

Your Ref:

Case name and number

## NOTICE OF HEARING

## Judicial Mediation

The Vice-President has directed that there should be a Judicial Mediation which will take place in private under the procedure governing preliminary hearings.

**The Judicial Mediation meeting will be held at** *address***, at** *00:00* **am on** *date***.**

The Judicial Mediation meeting has been given a time allocation of [ ] days.

T Signed

cc: Acas Dated

JM9(SCOT) JM meeting hearing notice

JM10

**Judicial Mediation Report**

|  |  |
| --- | --- |
| Case number |  |
| Jurisdiction codes |  |
| Name of mediator |  |
| Name of mediation clerk |  |
| Date and length of JM arrangement PH |  |
| Date of mediation |  |
| Length of mediation |  |
| Outcome ( please tick) | Successful  Unsuccessful  Partially successful  Other (please specify) |
| If successful, how is settlement to be dealt with | COT3  Compromise agreement  Consent judgment  Other ( please specify) |
| If successful/partly successful, how many Hearing days have been saved (ignore time spent on JM) |  |

Note:

This report should be prepared by the mediation clerk up to and including “length of mediation”. It should be passed to the mediator to complete when the mediation has concluded (whether or not it was successful). The report should be placed on the mediation file and a copy given to the Office Manager and to the Vice President.

This report is for record keeping purposes only and should not be copied to anyone else and should not be placed on the main case file.

The details of the settlement should not be recorded on this report, merely the fact that one has been reached.

**<<else\_t****\_Scot\_160>>**

**<<##** 160 JM criteria **##>>**

**Annex 2**

**CRITERIA FOR THE IDENTIFICATION OF CASES THAT MIGHT BE CONSIDERED FOR JUDICIAL MEDIATION**

* All claims other than Equal Pay will be considered subject to the criteria set out below and provided the claim includes a Discrimination jurisdiction or a complex unfair dismissal complaint.
* In each case, the Vice President will determine if a case is suitable for an offer of Judicial Mediation.
* An important factor in assessing suitability will be whether there is an ongoing employment relationship.
* The anticipated length of the final hearing must be at least three days.
* The issues in the case must be readily identifiable or have been identified whether in the claim, the response or at a preliminary hearing.
* It must be apparent that there are no matters that might affect or hinder the Judicial Mediation process e.g. a collective dispute (whether or not Trade Union backed) with the employer that affects more than just the Claimant.
* The Respondents must be capable of having a decision-maker with full authority available for the mediation so that a binding agreement can be concluded as an outcome of mediation. For example, if a Government Department or Local Authority are Respondents, they must be capable of concluding a settlement at mediation without the necessity of referring matters to a committee for decision. Note that any Treasury (or similar Scottish Government) consent required in the case of a Government Department or Agency Respondent may well prevent the offer of Judicial Mediation.
* The ability of all parties to actively participate in the mediation process, and the impact of inequality of representation (e.g. one party self-represented with the other legally represented) are factors to be taken into account in determining whether a case is suitable for Mediation.
* It is an essential prerequisite that parties are motivated to enter into Judicial Mediation with an open mind; EJs considering referring a case for mediation should do all they can to assess whether all parties are so motivated.
* An important factor in assessing suitability will be whether there are other related proceedings ongoing or countenanced, e.g. in the Sheriff Court or Court of Session.
* If there are any ancillary disciplinary or grievance proceedings still outstanding consideration must be given as to what impact these may have on the mediation process.
* Where there is more than one Respondent, i.e. individual Respondents in a discrimination case, care should be taken where the statutory defence is being brought into play by the Respondent employer. Whilst this will not necessarily exclude a case from judicial mediation the complexity thereby introduced needs to be recognised and enquiries made in advance as to whether this may impact adversely upon the prospects of success of the Judicial Mediation process.
* Neither the Claimant nor any of the Respondents should be insolvent.
* There must be no suggestion of a further legal claim of any type, connected to the employment, being made by the Claimant against the Respondents, irrespective of the outcome of the Judicial Mediation.
* Where harassment or bullying is one of the grounds of complaint, or the entirety of the claim, care should be taken in assessing whether the emotional interaction between the parties is such as to make it unlikely that a judicial mediation could succeed.

161 JM SCOT FORM A

**<<else\_t****\_Scot\_161>>**

**<<##** 161 JM SCOT FORM A **##>>**

**Judicial Mediation Form A** Case Number……………………. Case Name……………………….

***First part for completion by Employment Judge who conducted the PH***

This claim involves discrimination and is likely to last three or more days at Hearing.

The parties were not asked if they would be interested in judicial mediation. (If that is

so, please explain why).

The parties have been asked whether, if selected, they would be interested in taking part in judicial mediation, and they are:

Interested. Not interested\* wish time to consider

\* If one or more parties are not interested in mediation, it would be helpful for us to know why. Please note reasons in the box below and place the form at the front of the file.

**Answer the following questions if parties are interested in judicial mediation:**

How long do you estimate this case would take to hear at a final hearing?

Why do you consider this case is suitable for mediation (include, but do not limit yourself to considering the criteria and factors set out in annex 2 to the ET-Acas Mediation Agreement)?

Are there any factors which you are aware of which would complicate the mediation process or increase the difficulty of obtaining a mediated settlement in this particular case (bear in mind the factors identified in annex 2 of the ETS-Acas agreement and include here any preliminary legal issues which affect the case)?

***Second part for completion by Vice-President***

Does this case meet the selection criteria for judicial mediation?

Yes No

Have you decided to offer the parties judicial mediation?

Yes No

If no, specify reasons

Was further information sought from EJ before decision made?

Yes No

If so, what relevant information was provided

Record below any other relevant information about this case

State name of Judicial Mediator appointed to deal with this case

Date referred back to administration:

***Third part for completion by Office Manager***

*State name of Judicial Mediation clerk appointed*

*Date*

**<<else\_t****\_Scot\_162>>**

***<<##*** 162 JM SCOT NOTE ***##>>***



**Judicial Mediation – Note to Parties**

Explanatory Note

* Mediation is a process whereby disputing parties seek to build an agreement in order to resolve the dispute, with the assistance of a trained mediator acting as an impartial third party. It offers an alternative way of resolving a dispute to that provided by going through a court or tribunal hearing. It is one type of what is often referred to as Alternative Dispute Resolution. The Government is keen to encourage citizens to explore alternatives of this type. With that in mind a Judicial Mediation service has been set up within the Employment Tribunal system in Scotland (and in England and Wales).
* In the Employment Tribunal context, Judicial Mediation involves bringing the parties in a case together for a Mediation Meeting which will take the form of a preliminary hearing (PH) in private. This Mediation PH is facilitated by a trained Employment Judge (the “Judicial Mediator”) , who will remain neutral and try to assist the parties in resolving their dispute. The Judicial Mediator will help to identify issues in dispute, but will not make a decision about the case, give legal advice or give an opinion on the merits of the case. The role of the mediator is to help the parties find ways to resolve their dispute by mutual agreement. Resolution is not limited to the remedies available at a Hearing.
* Whilst Judicial Mediation is part of the process of resolving employment disputes, which provides an alternative to a Tribunal Hearing, it is not an alternative to Acas conciliation. Acas and the Judiciary of the Employment Tribunals are working together to ensure the option of Judicial Mediation is available to parties while at the same time maximising the opportunity for Acas to perform its conciliation role. At no time will any statutory duty placed on Acas be compromised by the process, and at all times Acas and the Judiciary will remain independent of each other.

4. Judicial mediation is available to parties who have a dispute which involves an element of discrimination or involves a complex unfair dismissal claim and which we estimate is likely to take three or more days to resolve at a formal hearing.

5. An important factor in assessing suitability may be whether there is an ongoing employment relationship.

6. Whilst cases suitable for Judicial Mediation will be identified in a number of different ways, it is expected that the primary way that they will be identified is by a Judge at a preliminary hearing being held generally in respect of the case concerned. At that preliminary hearing, a case that may be suitable for Judicial Mediation will be identified; the parties advised of the possibility of Judicial Mediation being offered; their interest in receiving such an offer, or not as the case may be, identified and recorded; and then normal Case Management Orders and Directions made. The dates for Hearing will also normally be fixed, even if parties express interest in Judicial Mediation. This ensures that a Hearing can take place if needs be in the same timescale as that which would apply even if Judicial Mediation was not taking place.

7. At that stage if the parties indicate their willingness to consider an offer of Judicial Mediation, the file will then be passed to the Vice-President who will decide whether Judicial Mediation should be made available. An offer of Judicial Mediation will normally be made by letter. .A Judicial Mediation Arrangements preliminary hearing will be organised shortly thereafter at which timetables for the Mediation will be set, a sist (freeze) or variation of any other Case Management Orders which have already been made considered and the dates for the Judicial Mediation agreed. It is very important that parties/their representatives make themselves available to take part in this telephone Mediation Arrangements PH at the earliest opportunity. (If Judicial Mediation is not to be offered, parties will receive a letter to this effect.)

8. There is no obligation on a party to agree to Judicial Mediation and no adverse inference will be drawn against a party which does not wish to engage in the process. For Judicial Mediation to have a good prospect of success the parties must engage in the process voluntarily and with a positive motivation to resolve their dispute without a judicial determination.

9. Assuming that the offer of Judicial Mediation is accepted by all parties, the matter will then proceed to such Mediation, which is anticipated as ordinarily taking no more than 1 days.

10 Mediation will be carried out by an Employment Judge trained in Mediation. The Mediation technique that will be adopted and applied will be facilitative. While there is no rigid structure in place to determine how a mediation will be conducted generally during the course of the day there will be some points when the Judicial Mediator will speak to each party separately in the room which will be provided for their use while at other times the mediator may bring parties together in a room reserved for joint meetings so that discussions can take place in the presence of all concerned.

11. Judicial Mediation will be held in private and in circumstances which are entirely confidential. **The parties will be required to give an undertaking that discussions and events at the Judicial Mediation will remain confidential and will not be referred to at any subsequent Hearing**. The Judicial Mediator will play no further role in the case if it proceeds to a Hearing. If a Hearing does take place, the Employment Judge/Tribunal will not have access to the Mediation file and will not be able to discuss what happened at the Mediation with the Judicial Mediator.

12. At the telephone Mediation Arrangements PH, which takes place after an offer of Judicial Mediation is made, the Judicial Mediator will fix the dates for Judicial Mediation, discuss the process which will be followed and the range of issues which will require to be dealt with at the mediation. The Judicial Mediator will have been provided with a copy of the Claim and Response Forms, any Note and Orders arising from the first PH (at which Judicial Mediation was raised) and any other documents parties agreed should be provided at this stage to the Judicial Mediator. The issues which may be identified as requiring to be dealt with at mediation may be wider than those which could be determined by a Tribunal at a full Hearing. Agreement will also be reached on who should be present at the Mediation (which must include people capable of making decisions); and any requirements of the parties in respect of such Mediation.

13. There will be separate files opened for the JM and for the case itself. Only the Judicial Mediator has access to the mediation file. Other Employment Judges will not have access to the mediation file. It is therefore important that any correspondence relating to the JM deals only with that topic and does not include information /requests relating to the management of the case, outwith the context of mediation. Similarly, any correspondence about the case in general should not include information/requests which relate to the JM.

14. The Judicial Mediator may contact Acas to reactivate conciliation either during or at the end of the process of Judicial Mediation. This may be by a telephone conference in the presence of the parties (with their prior consent) with an appropriate Acas designated officer.

15. Parties may wish to take advice from a solicitor or advice agency (such as the CAB) in connection with the option of Judicial Mediation. Representatives can accompany parties to a mediation meeting if desired, albeit the role they may play is likely to be different from that which would be expected at a traditional Hearing.

16. If there are any matters of concern or any explanation required then please write to the Vice-President for clarification.

**<<else\_t****\_Scot\_163>>**

***<<##*** 163 JM1 SCOT ***##>>***



**EMPLOYMENT TRIBUNALS**

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| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Judicial Mediation**

**Confirmation of Interest Required**

At the preliminary hearing which you recently attended parties indicated that they wished some time to consider whether they wanted the above case to be put forward to the Vice-President with a request that judicial mediation be made available.

Please confirm to this office by [insert date 7 days after the date of the letter] whether or not you are interested in pursuing the possibility of judicial mediation.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_164>>**

***<<##*** 164 JM2 SCOT ***##>>***



**EMPLOYMENT TRIBUNALS**

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| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Judicial Mediation**

**Urgent response required re interest**

I refer to the letter from this office dated ***[insert date*]** in which you were asked to confirm whether or not you were interested in pursuing the option of judicial mediation. The other party in the case has indicated an interest. You must write to us immediately (and certainly by no later than **[insert date 5 days later]**) to let us know whether or not you wish to pursue this option. If nothing is heard from you by that date the option of judicial mediation will no longer be a possibility and the case will progress to a judicial determination in accordance with our normal procedures.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_165>>**

***<<##*** 165JM3 SCOT ***##>>***



**EMPLOYMENT TRIBUNALS**

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| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Judicial Mediation**

**Response awaited from other party**

Thank you for notifying us that you are interested in being offered the opportunity to take part in judicial mediation. We have not yet had a response from the other party in the case. A letter has been sent to them, advising that they must let us know within five days if they are interested in the case being put forward for consideration. We shall let you know the position at the end of that period.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_166>>**

***<<##*** 166 JM4 SCOT NO JM ***##>>***



**EMPLOYMENT TRIBUNALS**

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| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Judicial Mediation**

**Judicial mediation not pursued**

At least one party in the case has failed to inform us of whether they would be interested in pursuing judicial mediation as an option. In these circumstances, the option of mediation will not be pursued and the case will be progressed in accordance with our normal case related procedures. Case management orders, directions and arrangements for hearings previously made will therefore continue to apply.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_167>>**

***<<##*** 167 JM5 SCOT NO JM ***##>>***



**EMPLOYMENT TRIBUNALS**

|  |  |  |  |  |
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| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Judicial Mediation – Not pursued**

At least one of the parties has indicated that they are not interested in pursuing the option of judicial mediation. In these circumstances the option of mediation will not be pursued and the case will now be progressed in accordance with our normal case related procedures. Case management orders, directions and arrangements for hearings previously made will therefore continue to apply.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_168>>**

***<<##*** 168 JM6 SCOT ***##>>***



**EMPLOYMENT TRIBUNALS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Offer of Judicial Mediation**

The file has been referred to the Vice-President to consider whether judicial mediation could be offered. The Vice-President is pleased to inform you that she has decided to make judicial mediation available in this case.

A member of staff from this office will be in touch with you shortly to make arrangements for a Judicial Mediation Arrangement telephone preliminary hearing which will be conducted by the Judicial Mediator who will be dealing with the mediation.

It is important that this preliminary hearing takes place in early course and the Vice-President trusts you will do your utmost to be available at the earliest possible opportunity.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_169>>**

***<<##*** 169 JM7 SCOT ***##>>***



**EMPLOYMENT TRIBUNALS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**Judicial Mediation**

I understand that you expressed interest in an offer of judicial mediation. Thank you for your interest.

Unfortunately, the Vice-President was not able to offer you the opportunity of judicial mediation in this case. She appreciates that this is likely to be disappointing news but hopes that you will understand that it is not possible to make judicial mediation available to all those who have expressed an interest.

Case management orders, directions and arrangements for hearings previously made will therefore continue to apply.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_170>>**

***<<##*** 170 JM8 notice of arrangements PH ***##>>***



**EMPLOYMENT TRIBUNALS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**NOTICE OF PRELIMINARY HEARING BY TELEPHONE**

**To arrange Judicial Mediation**

The Vice-President, having offered parties the opportunity to participate in a judicial mediation with a view to resolving the dispute between them, has directed that there should be a preliminary hearing which will be conducted by the Employment Judge who has been appointed as Judicial Mediator, to:

(a) Fix the date for the Judicial Mediation. Please bring along availability for the following months **[Month1/Month2]**

(b) Make appropriate arrangements for the conduct of the Judicial Mediation;

(c) Give any other directions which may be necessary for the fair and expeditious disposal of the case.

**The preliminary hearing will be conducted by a Telephone Conference call at [insert Time of CMD] on [Insert Date of CMD]. To participate in the conference call you should dial [insert phone number (0333 300 1440)] at the appointed time, and enter pin code [Insert PIN CODE]. Please note that if you are intending to dial in from a mobile phone then you should check the call rate with your service provider.**

**Please provide the Tribunal with your direct dial telephone numbers if you have not already done so.**

The preliminary hearing has been given a time allocation of one hour. If you feel that this is insufficient please inform this office in writing immediately, stating why you consider a longer period of time is required.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else\_t****\_Scot\_171>>**

***<<##*** 171 JM9 SCOT notice of mediation ***##>>***



**EMPLOYMENT TRIBUNALS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| To: | <<claimant\_full\_name>>,  <<claimant\_addressUK>>  <<claimant\_email\_address>>  or    <<respondent\_full\_name>>,  <<respondent\_addressUK>>  <<respondent\_email\_address>>  delete as applicable | | | <<Court\_Address>>  <<Court\_Telephone>>  <<Court\_Fax>>  <<Court\_DX>>  **e-mail: <<Court\_Email>>** |
| Your Ref | |  |  | |
| Date | | <<TODAY\_DATE>> |

**Case Number:** <<Case\_No>>

|  |  |  |
| --- | --- | --- |
| **Claimant**  <<Claimant>> | **v** | **Respondent**  <<Respondent>> |

Dear Sir/Madam

**NOTICE OF HEARING**

**Judicial Mediation**

The Vice-President has directed that there should be a Judicial Mediation which will take place in private under the procedure governing preliminary hearings.

The Judicial Mediation will be held at **<<Hearing\_Address>>** on **<<Hearing\_Date\_Time>>**.

The Judicial Mediation has been given a time allocation of **<<Hearing\_Duration>>**.

|  |
| --- |
| Yours faithfully,  <<Clerk**>>**  For the Tribunal Office |

**<<else>>**

***<<##*** 172 JM10 ***##>>***

**Judicial Mediation Report**

|  |  |
| --- | --- |
| Case number |  |
| Jurisdiction codes |  |
| Name of mediator |  |
| Name of mediation clerk |  |
| Date and length of JM arrangement PH |  |
| Date of mediation |  |
| Length of mediation |  |
| Outcome ( please tick) | Successful  Unsuccessful  Partially successful  Other (please specify) |
| If successful, how is settlement to be dealt with | COT3  Compromise agreement  Consent judgment  Other ( please specify) |
| If successful/partly successful, how many Hearing days have been saved (ignore time spent on JM) |  |

**Note:**

This report should be prepared by the mediation clerk up to and including “length of mediation”. It should be passed to the mediator to complete when the mediation has concluded (whether or not it was successful). The report should be placed on the mediation file and a copy given to the Office Manager and to the Vice President.

This report is for record keeping purposes only and should not be copied to anyone else and should not be placed on the main case file.

The details of the settlement should not be recorded on this report, merely the fact that one has been reached.

**<<es\_>>**