

Family Mediation Contract Guidance Q&A

Process for Tendering for 2010 Contracts

When will the mediation invitation to tender take place?

The mediation invitation to tenders are planned to open on the 26 February and there will be at least a 7-week window in which to apply. It will close at noon on the 21 April. We will advertise the tender exercise in advance.

All tenders for new contracts must be submitted through the LSC's secure eTendering system. The eTendering site can be accessed through the [eTendering portal](#). Although the tender process is yet to open, you can register your organisation's details on the system now – you will be provided with a username and password for future use. We also advise that you familiarise yourself with how to use the system via the 'Technical Support and Guidance' link on the eTendering portal. When the tender process opens, you should also read all tender documents carefully, taking note of all deadlines. The tender documents will be published on our [eTendering portal](#).

As set out in *Civil Bid Rounds for 2010 Contracts: A Consultation Response*, as part of the tender process you will need to complete a Pre-Qualification Questionnaire (which seeks confirmation of your organisation's suitability to contract with us as a public body) and complete a response to the Invitation to Tender which will ask more specifically about the mediation services you intend to deliver.

As set out in the National Procurement Plan for Family Mediation we will be running a national tender exercise and applicants will need to set out which areas where they want to provide a service in - whether full time or through outreach.

To be awarded a new contract you will need to commit to deliver the full range of service i.e. Children, Finance and All Issues Mediation and be able to comply with the Mediation Quality Mark standard including the supervisor standard.

Any service that satisfies the tender requirements will be awarded a contract.

What will new services to do obtain the MQM Standard?

If a new service does not currently hold the MQM standard, it will need to apply for it as part of the tender process. Therefore an applicant organisation will not need to meet the MQM standard at the time the tender is submitted. However, it will be a pre-condition of any Contract award that, where it has not already been achieved, the organisation must pass the desktop audit stage of the MQM 8 weeks before 14 October 2010 and fully hold the MQM by 1 April 2011.

A link to our revised MQM requirements from Oct 2010 can be found at the following link on the right hand side of the screen (2nd document down):

http://www.legalservices.gov.uk/civil/qm/mediation_quality_mark.asp

Where can I find the Family Mediation Contract Specification?

The contract specification for family mediation from 2010 can be found on the following link, again the relevant document can be found on right hand side of screen.

<http://www.legalservices.gov.uk/civil/8758.asp>

Under the new mediation specification will remuneration arrangements continue to be the same?

All of the remuneration arrangements will be the same under the 2010 contracts. Assessment meetings alone will continue to be funded in the current way and no changes have been made to the way work is undertaken or claimed.

Why have Key Performance Indicators (KPI) been included in the contract; what data will they use, and how will services performance be managed?

We introduced KPI into the contract to give us the mechanics to more effectively manage and address poor performance. Many services have very differing conversion rates between willingness tests, assessments and mediations, even taking into account local demographics, case profiles and volumes of work. We hope by highlighting poor performance and sharing best practice we can ensure as many clients as possible benefit from using mediation as a way of resolving their family disputes.

It is a requirement under this Specification that a provider must achieve conversion rate for Clients of at least the following:

- a) 35% conversion rate from Willingness Tests to Assessment Meetings; and
- b) 40% conversion rate from Assessment Meetings (Separate and Joint) to Mediation.

These KPIs have been set well below the average conversion rates we see each year, which is 46-49% for willingness tests to assessment meetings and 56-60% for assessment meetings to mediations. As set out in the specification, we will exclude providers who undertake less than 20 Willingness Tests and less than 10 Assessment Meetings over a three-month period as low volumes can mean conversion rates can easily be distorted by a couple of extreme cases.

For the purpose of the KPIs no assessment meeting alone will be included in the conversion rates as they can't, by their very nature, convert to mediation. We will only use assessment meetings together and assessment meetings separate as a proxy for determining conversion rates under this target.

Where a provider fails to meet these targets we will work with them to understand why. It will only be if the provider fails to provide satisfactory reasons to explain their performance and the matter doesn't improve over a couple of quarter periods will the LSC start to impose contract sanctions that it deems appropriate in the circumstances.

What is the purpose of paragraph 3.13, which has introduced a requirement for clients' signatures to be obtained if the matter does not proceed to mediation, as a way of acknowledging clients understanding of the decision reached?

The introduction of paragraph 3.13 was a recommendation by the National Audit Office (NAO). The NAO were concerned that when they interviewed clients who visited a mediation service as part off their 2007 study, they didn't always understand why mediation wasn't suitable for their dispute or why they decided not to continue. More often then not, it will simply be because they have forgotten due the stressful and difficult circumstances involved particularly as they are provided with a lot of information during this time. However, the NAO wanted us to introduce this step as a way of evidencing that clients understood why mediation wasn't progressing. We have set quite flexible wording around this requirement as we appreciate this will not always be possible to do, and we were anxious not to add additional obligations onto services that would prove particularly resource intensive.

Which services are eligible to undertake child abduction mediations?

Only those services that employ a mediator who is on the 'International Child Abduction and Contact Units' official list of recognised Mediators. We are currently working with the Family Mediation Council and appropriate stakeholders to establish what experience is required in order to undertake this work and further guidance will be provided in advance of October 2010. For the purpose of this work "*Child-Abduction Mediation*" means mediation in proceedings where a person has submitted an application under the Hague Convention or the European Convention to the Central Authority in England and Wales under section 3(2) or 14(2) of the Child Abduction and Custody Act 1985.

What are the current In-Court Mediation Arrangements?

Although the official In-Court Mediation Pilot has closed for evaluation, the LSC are keen to encourage more court referrals to mediation and are therefore happy to authorise outreach at any court, in order to continue to support the creation of more in-court mediation schemes up and down the country.

Under these arrangements the LSC will pay for assessment meeting for both parties as long as one party is eligible and will pay for any subsequent mediation for the eligible client. We appreciate this does present issues with clients not always having proof of means at court. However, production of a live legal aid certificate will be evidence of means.

You may assess the prospective Client's means without the accompanying evidence where:

- (a) It is not practicable to obtain it before commencing Family Mediation Contract Work; or
- (b) Exceptionally, the personal circumstances of the Client (such as the Client's age, mental disability or homelessness) make it impracticable for the evidence to be supplied at any point in the case.

Unless (b) applies, you must require the Client to provide the evidence as soon as practicable. If satisfactory evidence of the Client's financial eligibility is not

subsequently supplied, or if the evidence shows that the Client is not financially eligible, you may claim the work carried out provided that:

(a) You have acted reasonably in undertaking work before receiving satisfactory evidence of the Client's means; and

(b) You have acted reasonably in initially assessing financial eligibility on the information available.

(c) You do not Claim any disbursement beyond those incurred in the period before it is practicable to obtain satisfactory evidence of the Client's means.

After the evaluation of the pilot has been completed the LSC will look at appropriate flexible national arrangements to facilitate stronger in-court/court referred mediation moving forward.

What are the current arrangements for agreeing additional Outreach before October 2010?

We will not be permitting additional outreach (apart from those at court) outside of the official 2010 tender, unless we identify a significant area of need that requires addressing as a matter of urgency to ensure client access to mediation services.