

## **PRACTICE DIRECTION – 15.10**

### **Family Mediation**

#### **Part 1 – General**

1.1 The purpose of this Practice Direction is to prescribe, after the expiry of the pilot scheme on family mediation which has been extended to 31<sup>st</sup> July, 2003, the procedure to be followed by the petitioner, the respondent, the applicant or their legal representatives when instituting matrimonial proceedings and the format of a report by the Mediation Co-ordinator on the outcomes of information session on family mediation.

1.2 Under these practice directions, unless the context otherwise requires -

“Mediation Co-ordinator” means the Mediation Co-ordinator appointed pursuant to the recommendation of the Steering Committee on Pilot Scheme on Family Mediation that the Mediation Co-ordinator would hold information sessions on family mediation for the petitioner, the respondent, or the applicant when instituting matrimonial proceedings.

“Leaflet” means the information leaflet prepared by the Mediation Co-ordinator, as may be revised from time to time, for promoting family mediation.

#### **Part 2 – Referral to Family Mediation Upon Institution of Matrimonial Proceedings**

##### **2.1 *Legally Represented Petitions***

2.1.1 When a person consults a solicitor and decides to institute matrimonial proceedings, the solicitor shall advise that person of the availability of family mediation service and how it may assist in the proceedings and shall give to that person the Leaflet on the service.

2.1.2 To fulfil the requirements of 2.1.1, the solicitor shall, at the time the petition for divorce or separation is filed, file with the Family Court Registry (the Registry) a “Petitioner’s Certificate as to Family Mediation” in the form annexed hereto as Appendix 1 duly signed by the petitioner and the solicitor. This will be in addition to Form 2A in Schedule 1 to the Matrimonial Causes Rules. If the petitioner indicates a desire to attempt family mediation, the Registry staff shall refer the case to the Mediation Co-ordinator (the Co-ordinator).

2.1.3 The petitioner's solicitor shall serve on the respondent, in addition to the Petition and Form 4, a copy of the Leaflet, the signed "Petitioner's Certificate as to Family Mediation", and the "Respondent's Certificate as to Family Mediation", in the form annexed hereto as Appendix 2.

2.1.4 If the respondent is legally represented, the solicitor shall complete, in addition to Form 4, the "Respondent's Certificate as to Family Mediation". If the respondent indicates a desire to attempt family mediation, the Registry staff shall check whether the referral to the Co-ordinator has been made and, if not, shall refer the request to the Co-ordinator who will then contact the petitioner to seek consent.

2.1.5 If the respondent is acting in person, the respondent may, in addition to Form 4, return the signed "Respondent's Certificate as to Family Mediation" to the Registry. If this indicates a desire to attempt family mediation, the Registry staff shall check whether referral to the Co-ordinator has been made and, if not, shall refer the request to the Co-ordinator who will then contact the petitioner to seek consent.

## **2.2 *Petitioner Acting in Person***

2.2.1 When a petitioner acting in person files a petition with the Registry, the Registry staff shall hand to the petitioner a copy of the Leaflet together with a form of the "Petitioner's Certificate as to Family Mediation" and shall inform the petitioner that the form may be completed and may be filed with the Registry. If the Petitioner indicates a desire to attempt family mediation and files the "Petitioner's Certificate as to Family Mediation", the Registry staff shall refer the request to the Co-ordinator. The Co-ordinator will then contact the respondent to seek consent.

2.2.2 The Registry staff shall also inform the petitioner that the petitioner may serve on the respondent a copy of the Leaflet and the "Respondent's Certificate as to Family Mediation" though the petitioner will not be obliged to ensure that the respondent will receive or complete the Certificate.

2.2.3 If the respondent in receipt of the Petition consults a solicitor, the solicitor shall advise the respondent of the availability of family mediation service and how it may assist in the proceedings and give to the respondent the Leaflet. The respondent's solicitor shall complete, in addition to Form 4, the "Respondent's Certificate as to Family Mediation". If the respondent indicates a desire to attempt family mediation, the Registry staff shall check whether the referral to the Co-ordinator has been made and if not, shall refer the case to the Co-ordinator who will then contact the petitioner to seek the petitioner's consent.

2.2.4 If the respondent is acting in person and returns the Form 4 to the Registry in person, the Registry staff shall hand to the respondent a copy of the Leaflet and the "Respondent's Certificate as to Family Mediation". The Registry staff shall also inform

the respondent that the respondent may sign the Certificate and file it with the Registry. If the respondent indicates a desire to attempt family mediation, the Registry staff shall check whether referral to the Co-ordinator has been made, and if not, shall refer the case to the Co-ordinator who will then contact the petitioner to seek consent.

### **2.3      *Legally Represented Joint Applications***

2.3.1    When persons married to each other agree to institute matrimonial proceedings by joint application and consult their solicitors, the solicitors shall advise them of the availability of family mediation service and shall give to them the Leaflet.

2.3.2    The joint applicants and their solicitors shall complete the "Applicants' Certificate as to Family Mediation" annexed hereto as Appendix 3 and file the said certificate with the Registry. If in a joint application, either person indicates a desire to attempt family mediation, the Registry staff shall refer the case to the Co-ordinator with a copy of the Certificate. The Co-ordinator will then contact the other person to seek consent.

2.3.3    If only one person is legally represented, that person's solicitor shall complete the said certificate for filing with the Registry.

### **2.4      *Joint Applicants Acting in Person***

2.4.1    If persons married to each other, both acting in person, institute matrimonial proceedings by joint application, the Registry staff shall give to each of them the "Applicants' Certificate as to Family Mediation" in the form annexed hereto as Appendix 3 and a copy of the Leaflet.

2.4.2    The Registry staff shall inform the applicants that they may complete the Certificate and file it with the Registry. If either or both persons have indicated a desire to attempt family mediation, the Registry staff shall refer the case to the Co-ordinator with a copy of the Certificate.

## **Part 3 – Referral to Family Mediation After Litigation Has Commenced**

3.1      During the course of litigation, the petitioner or respondent or applicant may separately or jointly file with the Co-ordinator an "Application for Family Mediation", in the form annexed hereto as Appendix 4. The Co-ordinator shall send a copy of the application to the Registry for record purpose.

3.2      Any application for family mediation filed with the Registry or lodged with the Co-ordinator in Forms of these practice directions shall not lead to an automatic stay in the litigation proceedings.

**Part 4 – Report on Attendance of Information Session on Family Mediation**

4.1 The Co-ordinator shall submit a report to the court through the Registry indicating whether the parties have attended an information session on family mediation. Such reports shall be couched in neutral language and shall indicate only that –

- (a) family mediation was sought but neither party attended an information session.
- (b) one (or both) parties attended information sessions and thereafter additional information on family mediation was given to one (or both) parties.

5. This Practice Direction replaces Practice Direction 15.10 of 2 May 2000 and shall come into effect on 1 August 2003.

Dated this *15<sup>th</sup>* day of *July* 2003

*Andrew Li*

Andrew Li  
Chief Justice

**Petitioner's Certificate as to Family Mediation**

**For Petitioner who is legally represented#**

I, \_\_\_\_\_, the solicitor acting for the petitioner in the above cause, certify that I have advised the petitioner of the availability of family mediation and have given the information leaflet on family mediation to the petitioner.

I, \_\_\_\_\_, the petitioner in the above cause, certify that my solicitor has advised me of the availability of family mediation and has given me the leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

**For Petitioner acting in person#**

I, \_\_\_\_\_, the petitioner in the above cause, have been given the information leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

(Signed) (Solicitor)

(Signed) (Petitioner)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

**Notice to Petitioner**

Please put down a contact address and a telephone number to enable arrangements to be made to attend an information session on family mediation.

Contact address: \_\_\_\_\_

Contact telephone numbers: \_\_\_\_\_

Name of respondent: \_\_\_\_\_

Contact address of respondent \_\_\_\_\_

Contact telephone numbers of respondent: \_\_\_\_\_

(The above information is collected for the purpose of arranging the parties to attend an information session on family mediation.)

# Complete the section relevant to your case only

\* Delete as appropriate

**Respondent's Certificate as to Family Mediation**

**For Respondent who is legally represented#**

I, \_\_\_\_\_, the solicitor acting for the respondent in the above cause, certify that I have advised the respondent of the availability of family mediation and have given the information leaflet on family mediation to the respondent.

I, \_\_\_\_\_, the respondent in the above cause, certify that I have received the information leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

**For Respondent acting in person#**

I, \_\_\_\_\_, the respondent in the above cause, have been given the information leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

(Signed) (Solicitor)

(Signed) (Respondent)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

**Notice to Respondent**

Please put down a contact address and a telephone number to enable arrangements to be made to attend an information session on family mediation.

Contact address: \_\_\_\_\_

Contact telephone numbers: \_\_\_\_\_

Name of Petitioner: \_\_\_\_\_

Contact address of Petitioner: \_\_\_\_\_

Contact telephone numbers of Petitioner: \_\_\_\_\_

(The above information is collected for the purpose of arranging the parties to attend an information session on family mediation.)

# Complete the section relevant to your case only

\* Delete as appropriate

**Joint Applicants' Certificate as to Family Mediation**

**For Applicants who are legally represented#**

I, \_\_\_\_\_, the solicitor acting for the 1<sup>st</sup> applicant in the above cause, certify that I have advised the applicants of the availability of family mediation and have given the information leaflet on family mediation to the applicants.

I, \_\_\_\_\_, the 1<sup>st</sup> applicant in the above cause, certify that my solicitor has advised me of the availability of family mediation and has given me the leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

I, \_\_\_\_\_, the solicitor acting for the 2<sup>nd</sup> applicant in the above cause, certify that I have advised the applicants of the availability of family mediation and have given the information leaflet on family mediation to the applicants.

I, \_\_\_\_\_, the 2<sup>nd</sup> applicant in the above cause, certify that my solicitor has advised me of the availability of family mediation and has given me the leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

**For Applicants acting in person#**

I, \_\_\_\_\_, the 1<sup>st</sup> applicant in the above cause, have been given the information leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

I, \_\_\_\_\_, the 2<sup>nd</sup> applicant in the above cause, have been given the information leaflet on family mediation. At this time, I do/do not\* wish to seek family mediation. I am aware, however, that I may at any time during court proceedings indicate to the court my wish to attempt to resolve any outstanding issues by means of family mediation.

(Signed) (Solicitor)

(Signed) (1<sup>st</sup> Applicant )

(Signed) (Solicitor)

(Signed) (2<sup>nd</sup> Applicant)

Dated this       day of       20       .

Notice to the Applicants

Please put down a contact address and a telephone number to enable arrangements to be made to attend an information session on family mediation.

First Applicant

Contact address: \_\_\_\_\_

Contact telephone numbers: \_\_\_\_\_

Second Applicant

Contact address: \_\_\_\_\_

Contact telephone numbers: \_\_\_\_\_

(The above information is collected for the purpose of arranging the parties to attend an information session on family mediation.)

# Complete the section relevant to your case only

\* Delete as appropriate



**Application for Family Mediation**

To: Mediation Co-ordinator,

I, \_\_\_\_\_, the petitioner/respondent/applicant\* in the above cause, believing that the outstanding issues in this matter may be resolved by family mediation, hereby apply to the Mediation Co-ordinator for attending an information session on family mediation. The outstanding issues to be covered include :

The welfare of the children (custody and/or access) ☐

Financial support for one spouse and/or the children ☐

Accommodation for one spouse and/or the children ☐

Financial matters generally ☐

Others, Please specify \_\_\_\_\_ ☐

I make this application in the knowledge that the filing of this application shall not result in a stay of proceedings.

(Signed) (Petitioner/Respondent/Applicant\*)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

**Notice to Petitioner/Respondent/Applicant**

Please put down a contact address and a telephone number to enable arrangements to be made to attend an information session on family mediation.

Contact address: \_\_\_\_\_

Contact telephone numbers: \_\_\_\_\_

Name of the other party: \_\_\_\_\_

Contact address of the other party: \_\_\_\_\_

Contact telephone numbers of the other party: \_\_\_\_\_

(The above information is collected for the purpose of arranging the parties to attend an information session on family mediation. A copy of this form will be forwarded to Family Court Registry for retention.)

\* Delete as appropriate