

FAMILY MEDIATION VOUCHER SCHEME

Information for mediators

Overview

The Ministry of Justice (MoJ) is investing £1m in a family mediation voucher scheme to support families who could benefit from help through family mediation and to offset the impact of Covid 19 in the family courts.

The MoJ has developed a mediation voucher scheme, whereby a contribution of up to £500 per case/family to the mediation costs of a child arrangements case will be offered, encouraging people to seek to resolve their disputes outside of court where appropriate to do so.

In addition to seeking to reduce court backlogs we hope the scheme will also allow us to develop an evidence base around the uptake of mediation and the impact which the offer of a financial contribution could have. The scheme will be administered by the Family Mediation Council (FMC), who will be making payments to mediation providers on behalf of the MoJ.

What is the family mediation voucher scheme?

The purpose of the scheme is to promote the benefits of mediation and divert matters where appropriate away from the family courts. The scheme will offer mediation participants a financial contribution of up to £500 per family towards the total costs of their mediation. This payment will be made directly to mediation providers by the FMC who will administer the scheme on behalf of the MoJ.

It is important to note that the mediation voucher will not cover the cost of a Mediation Information and Assessment Meeting (MIAM) or paperwork. The financial contribution can only contribute towards the cost of mediation itself.

Information to give to a party/parties at the MIAM stage

At a MIAM, the mediator should provide information about the family mediation voucher scheme. This should include information about:

1. The value of the voucher
2. Whether the case is eligible for the scheme
3. If a party/parties are eligible for legal aid, what this means for them

Eligibility for scheme: case types

Eligibility for the mediation voucher scheme is not based on an individual's income. However, mediation vouchers will be restricted to cases where there is a private law dispute/application regarding a child, for example for a child arrangements order (CAO) or specific issues order, whether or not there is an associated Financial Remedy (FR) dispute/application.

£500 is available per case, not per individual, and a family can only claim one voucher during the life cycle of this scheme.

Legal Aid

The scheme is not based on assessing income or any other factor relating to a person's finances. Those who are eligible for legal aid are not excluded from the voucher scheme. However, you must undertake a high-level assessment of eligibility for legal aid – if in doubt

you can use the government assessment tool at <https://www.gov.uk/check-legal-aid> (see Endnote)

Where an individual is or is likely to be eligible for legal aid:

- As required in the FMC Code of Practice, you must inform the individual that they may qualify for legal aid and (if you do not offer this) the services of a mediation practice with a legal aid contract. Mediators should also inform them of the difference between the scheme and legal aid.
- It should be made clear that legal aid funding may well be preferable for them, as it will fund significantly more mediation costs, although consideration should be given to the position of the other party if they are not eligible for legal aid. The voucher scheme will only provide up to a £500 contribution towards the total mediation bill.

Where one party is in receipt of Legal Aid

In circumstances where only one party is funded by legal aid, the mediation voucher can be obtained to fund the other party up to £500 per case. This may be used to fund a non-legally aided participant's second mediation session onwards, for example.

It would be helpful to ensure individuals understand that not all mediators can undertake legally aided work; consideration should be given to instructing a mediator who can undertake legal aid mediation if either party is or may become eligible.

When will the information about the scheme be given?

Information should be given to a party or parties who attend a Mediation Information and Assessment Meeting (MIAM) pre or post court application stage.

At a MIAM, parties who are potentially eligible for the scheme should be informed about it by mediators. Once the second potential mediation participant has been seen and both participants agree to an application for a voucher and if the case is proceeding to mediation the mediator will then apply to the FMC for approval to proceed under the voucher scheme.

How long will the scheme run for?

The scheme will run until the funds are spent.

How mediators will engage with the FMC

The scheme will be administered by the FMC, on behalf of the MoJ.

On first application to the FMC, a mediator (or a firm acting on behalf of a mediator) will be required to complete a short form to register to take part in the scheme – this will include providing bank details. The FMC will then contact the mediator (or firm acting on their behalf) to confirm their bank details. This is to ensure that the mediator/firm is set up as potential voucher recipient.

On every application for a voucher, the mediator (or the firm acting on their behalf) will need to contact the FMC before commencement of mediation to check the availability of vouchers. Once the FMC has confirmed there are vouchers available, the mediator will be issued a unique reference, and the mediator can then confirm to the mediation participants that a financial contribution up to £500 will be applied to the clients' overall mediation costs. This unique reference number should be used in all reference to their clients including invoices.

How mediators should issue invoices

Invoices must:

- Be addressed to the FMC, for an item named 'MoJ Mediation Voucher';
- Include the allocated voucher reference and a breakdown of the time spent
- Be submitted with information about the total bill, stating the normal private client hourly rate, dates and lengths of sessions, along with any other costs, so that the FMC can identify that the £500 deduction is being properly applied for the clients' benefit;
- State any VAT payable within the £500 maximum payment.

Hourly rate for mediators

Mediators may charge their normal, private client, hourly rates. The maximum amount payable under one voucher is £500 (including any VAT).

Client consent

Consent from the clients is required for the mediator accessing the voucher on the clients' behalf. The FMC will specify the form of consent that is required. Clients will also be asked to complete a short equality monitoring form – completion of this is optional.

Data gathering

This scheme will benefit at least 2,000 families, and presents a useful opportunity to gather much needed data about mediation. Mediators (or a firm acting on their behalf) will be required to complete a simple form to allow the FMC & MoJ to gather data which will allow for assessment of the scheme.

Timeline

26 March 2021 – Scheme is launched and open to mediation participants who attend a MIAM on or after this date

1 April – Mediators can register to participate in the scheme, via the FMC website, and start to make requests for voucher allocations

Further information

Visit <https://www.familymediationcouncil.org.uk/mediation-voucher-scheme/> to find:

- Information for mediation participants
- Details of the form that client consent must take (which must be submitted when you request allocation of a voucher)
- Copies of the client monitoring form that you are required to ask your clients to complete
- Details of the data you will be required to provide once the case has concluded, before you submit an invoice
- Details of the data you will be required to submit with your invoice.
- From 1 April, a link to register to participate in the scheme and to access the forms required to make allocation requests

Next steps for mediators

To participate in the scheme, please

- Read this information carefully, and look at the additional documents listed above
- Ensure the FMC has up to date details on its website, for any mediation service that might make a claim on your behalf
- Ensure mediation participants understand how the scheme works, obtain client consent and ask them to complete a monitoring form
- From 1 April, register on the FMC website to participate in the scheme

Endnote

The financial eligibility checker on <https://www.gov.uk/check-legal-aid> currently directs people who say they want to check eligibility for legal aid for family mediation, but mediation hasn't started yet, to the FMC's Find A Mediator page.

To reach the eligibility checker you can instead click:

- Start Now
- Family
- Family Mediation
- Yes (I have taken part in a Mediation Session)
- Check if you qualify financially