

# Independent Conciliation Service for County Court Small Claims Track Disputes

## Service Rules

These Rules apply to application forms received by Centre for Effective Dispute Resolution (CEDR) on or after 5<sup>th</sup> June 2024.

If you require this document in an alternative format, please contact us for further details.

### 1 Introduction

- 1.1 The Independent Conciliation Service (“the Service”) is designed to minimise costs and to encourage agreement between parties in dispute. CEDR provides the Service as an informal and independent way of resolving disputes subject to County Court proceedings where the sum claimed does not exceed £10,000.00 plus VAT, between a claimant (“the Claimant”) and a respondent (“the Respondent”), together known as “the Parties”. This is done by way of a conciliation process (“the Conciliation”).
- 1.2 To use the Service, the Parties must send a jointly completed application form (“the Application”) to CEDR setting out their dispute. The cost of using the Service will be shared equally between the Parties as set out at Rule 6.2.
- 1.3 Conciliation is a private and flexible form of negotiation between the Parties, in which an independent conciliator actively assists the Parties to work towards a negotiated settlement of a dispute or difference, including the proposal of solutions for the parties’ consideration. Conciliation is voluntary, confidential and ‘without prejudice’, which means nothing said during the Conciliation is admissible as evidence in legal proceedings.
- 1.4 The Parties remain in control of the decision to settle the dispute and the terms of its resolution. Any settlement reached is legally binding once documented in writing and signed by the Parties.
- 1.5 This procedure applies where disputing parties seek assistance on the matters in dispute from an independent conciliator appointed by CEDR. The conciliator, who will be a qualified and accredited CEDR mediator, will work with the parties to try to find an agreed solution to the dispute.
- 1.6 Applications to the Service will be accepted from claimants or their appointed representatives. A representative can only be appointed if:



- 1.6.1 the claimant provides, with the application to the Service, signed authority confirming that they agree to the representative acting on their behalf; or
  - 1.6.2 the representative provides, with the application to the Service, a valid legal document giving them authority to act on the claimant's behalf (e.g. a valid will or lasting power of attorney).
- 1.7 CEDR has the exclusive right to appoint and withdraw a conciliator under these Rules. The Parties will not have the right to choose a specific conciliator.

## 2 Scope of the Service

- 2.1 The Service can be used to conciliate disputes based on money claims where the amount claimed by the Claimant does not exceed £10,000.00 plus VAT and which have been allocated to (or are likely to be allocated to) the Small Claims Track.
- 2.2 The Service cannot consider complaints, or parts of complaints, which fall into one or more of the following categories:
- 2.2.1 applications made to the Service by (or, in the case of nominated representatives under Rule 1.6, on behalf of) someone who does not fall within the definition of a 'Claimant' set out at Rule 1.1;
  - 2.2.2 applications made against an individual or organisation that does not fall within the definition of a 'Respondent' set out at Rule 1.1;
  - 2.2.3 complaints that contain no aspect relating to the matters set out at Rule 2.1;
  - 2.2.4 applications where a total sum of money has been claimed by the Claimant that exceeds £10,000.00 plus VAT (this sum includes any claims for compensation, refunds, credits and/or waivers);
  - 2.2.5 complaints, which in the opinion of CEDR, are more appropriately dealt with by a court, regulatory body, or other formal process;
  - 2.2.6 complaints that CEDR considers to be frivolous and/or vexatious;
  - 2.2.7 complaints that are the subject of either:
    - 2.2.7.1 an existing application; or
    - 2.2.7.2 a previous valid application that reached a resolution through the Service;
  - 2.2.8 complaints that have been, or are, the subject of court proceedings or an alternative independent procedure for the determination of disputes (unless such proceedings or alternative procedure have been abandoned, stayed or suspended);
  - 2.2.9 complaints that would seriously impair the effective operation of CEDR if considered.
- 2.3 If the whole dispute falls outside the scope of the Service, it will be withdrawn from the Service. If part of the dispute falls outside the scope of the Service but part is in scope, only the part that is in



scope will proceed (unless it is not practicable to do so).

2.4 Any complaint, or part of a complaint, that falls outside the scope of the Service can proceed if the Parties give their express agreement for this to happen.

### **3 Applying to use the Service**

3.1 To apply to use the Service, the Parties must jointly complete and send to CEDR an application form, which can be done by post or email. Each of the Parties must also pay the fee set out at Rule 6.2. Application forms are available from CEDR and on the Service website [here](#). If either of the Parties requires any special assistance, they can contact CEDR and reasonable adjustments will be made in line with CEDR's reasonable adjustments policy, which can be found [here](#).

3.2 The Parties should provide with the Application any relevant documents and/or evidence. It is the Parties' responsibility to provide the documents and/or evidence that they wish to rely on. CEDR only has access to information and evidence that the Parties have specifically provided in connection with the dispute.

3.3 CEDR will acknowledge receipt of an application for conciliation within five working days of receipt.

3.4 Upon receipt of a completed application form and the required fees, CEDR will appoint a conciliator and will inform the Parties accordingly. The Conciliation begins from the date on which the conciliator is appointed.

3.5 All the documents relating to the case that have been provided by the Parties will be provided to the conciliator, and will be securely destroyed at the end of the process.

### **4 The Conciliation**

4.1 The conciliator will seek to conclude the Conciliation within 30 working days of their appointment.

4.2 The conciliator will communicate with the Parties by telephone, video call, or in writing (including email), either together or individually, to request further information or to explore possible solutions.

4.3 If the Parties do not reach a solution between themselves after discussions with the conciliator, then the conciliator may suggest to the Parties some opportunities for settlement.

4.4 If a solution is found, the conciliator will record that solution in writing and send it to the Parties (via CEDR) in the form of a Confirmation of Outcome Statement ("the Statement"). In order for the outcome set out in the Statement to become legally binding, both of the Parties must sign and



return the Statement to CEDR within 10 working days. Upon receipt of both signed copies of the Statement, CEDR will advise the parties accordingly and will confirm that the Conciliation has come to an end. Compliance with the agreed outcome must take place within 20 working days, unless the conciliator specifies an alternative timescale within the Statement.

4.5 If no solution is found, the conciliator will make a written recommendation and send it to the parties via the administrator as part of the Statement, for signature. In order for the recommendation set out in the Statement to become legally binding, both of the Parties must sign and return the Statement to CEDR within 10 working days. Upon receipt of both signed copies of the Statement, CEDR will advise the Parties accordingly and will confirm that the Conciliation has come to an end. Compliance with the agreed outcome must take place within 20 working days, unless the conciliator specifies an alternative timescale within the Statement.

4.6 If either of the Parties does not sign or return the Statement to CEDR within 10 working days, then the Statement has no effect and CEDR will write to the parties to confirm that the Conciliation has come to an end.

4.7 No terms of settlement reached will be legally binding unless or until set out in writing in the Statement and signed by or on behalf of both of the Parties.

4.8 Copies of any agreed Statement may be provided to the relevant County Court on a confidential basis for training and quality purposes. By using the Service, the Parties consent to this.

## **5 Powers of the conciliator**

5.1 Conciliators will be fair and unbiased throughout the Conciliation and will act as quickly and efficiently as possible, considering disputes in a fair and reasonable way.

5.2 A conciliator has the power to do any of the following:

- 5.2.1 request further comments and/or evidence from the Parties, and set time limits within which the Parties must provide such comments and/or evidence;
- 5.2.2 proceed with the Conciliation if either of the Parties does not keep to these Rules, or any instruction or direction made under these Rules;
- 5.2.3 consult any evidence not provided by either of the Parties, which the conciliator considers to be relevant. If this power is used, the Parties must be given an opportunity to provide comments on this evidence (NB. This power does not apply to evidence that the Parties ought reasonably to be aware of or have access to);
- 5.2.4 take into account any evidence provided by either of the Parties that the conciliator considers to be relevant to matters already raised in the dispute. If this power is used, the party that did not provide the evidence must be given an opportunity to comment on it;



- 5.2.5 withdraw a dispute from the Service if, in their opinion, the entirety of the dispute falls outside the scope of the Service (this decision cannot be reviewed or appealed);
- 5.2.6 determine whether or not the Parties have complied with the Statement, in the event that a dispute arises between the Parties regarding compliance.

5.3 Neither of the Parties can challenge the conciliator's use or non-use of the powers set out at Rule 5.2.

5.4 If the Parties do not reach a solution between themselves after discussions with the conciliator, then the conciliator may suggest to the Parties some opportunities for settlement. This may include a recommendation to the Parties in the Statement.

## **6 Costs**

6.1 The costs of using the Service will be shared equally between the Parties and paid in advance of the conciliation process.

6.2 CEDR will charge each party a fee of £240.00 (i.e. £200.00 plus VAT) to provide the Service.

6.3 Neither of the Parties needs to use legal representation, although either can do so if they wish.

6.4 The costs incurred by the Parties in preparing for, and taking part in, the Conciliation (including any other expenses) are not recoverable under the Service.

6.5 If either of the Parties incurs costs through the use of legal representation and/or using the Service, the Parties are responsible for their own costs and agree not to claim the costs of doing so from each other through legal action.

## **7 Confidentiality and data sharing**

7.1 Every person involved in the Conciliation:

- 7.1.1 will keep confidential all information arising out of or in connection with the Conciliation, including the terms of any settlement, but not including the fact that the Conciliation is to take place or has taken place or where disclosure is required by law, or to implement or to enforce the terms of the settlement or to notify their insurers, insurance brokers and/or accountants; and
- 7.1.2 acknowledges that all such information passing between the Parties, the conciliator and/or CEDR, however communicated, is agreed to be without prejudice to any of the Parties' legal positions and may not be produced as evidence or disclosed to any judge, arbitrator or other



decision-maker in any legal or other formal process, except where otherwise disclosable in law.

7.2 Where one of the Parties privately discloses to the conciliator or CEDR any information in confidence before, during or after the Conciliation, neither the conciliator nor CEDR will disclose that information to any other person without the consent of the person disclosing it, unless required by law to make disclosure. Each of the Parties agree, however, that the conciliator may disclose such information to CEDR provided that such disclosure is made by the conciliator and received by CEDR in confidence.

7.3 The Parties understand that the conciliator and CEDR do not give legal advice and agree that they will not make any claim against the conciliator or CEDR in connection with the Conciliation and/or the Service.

7.4 The Parties will not call the conciliator or any employee or consultant of CEDR as a witness, nor require them to produce in evidence any records or notes relating to the Conciliation, in any litigation, arbitration or other formal process arising from or in connection with their dispute and the Conciliation; nor will the conciliator nor any CEDR employee or consultant act or agree to act as a witness, expert, arbitrator or consultant in any such process. If one or more of the Parties does make such an application (as listed above), they will fully indemnify the conciliator or the employee or consultant of CEDR in respect of any costs any of them incur in resisting and/or responding to such an application, including reimbursement at the conciliator's standard hourly rate for the conciliator's time spent in resisting and/or responding to such application.

7.5 CEDR may gather and retain details, in summary form, of individual cases and, while preserving the anonymity of the parties, may publish such summaries on its website and to other conciliators as a resource in order to encourage consistency of practice under these Rules. CEDR may also publish statistical and outline information on such disputes whilst preserving the anonymity of parties.

7.6 The United Kingdom General Data Protection Regulation (UK GDPR) applies to the Service, and all data provided to CEDR in relation to complaints may be shared with the relevant County Court by CEDR, including all personal data. By using the Service, the Parties give their consent for any relevant personal data held by CEDR and/or the conciliator to be shared with HM Courts & Tribunals Service for training and quality purposes.

## **8 Other rules**

8.1 CEDR will appoint a substitute conciliator if the conciliator originally appointed is unable to deal with the dispute for any reason. CEDR will inform the parties if such an appointment is made.

8.2 Neither the conciliator nor CEDR shall be liable to any party for any act or omission in connection



with the conciliation conducted under the Service.

- 8.3 If any party has a complaint about the procedure, or the conciliator, or a member of CEDR staff then the complaint should be made by following CEDR's complaints procedure, which is available on CEDR's website.
- 8.4 If either of the Parties sends physical documents and/or evidence to CEDR, digital copies will be made and the physical documents and/or evidence will be immediately and securely destroyed, unless the party requests their return (this request must be made at the same time as the physical documents and/or evidence are sent to CEDR). CEDR does not keep any physical documents and/or evidence on its premises.
- 8.5 Any reference in these Rules to working days by definition excludes Saturdays, Sundays and bank/public holidays celebrated in England and Wales.
- 8.6 These Rules are subject to revision and amendment from time to time. The edition of the Rules in force at the time the application is made shall govern any conciliation under the Service.