

What If Mediation Is Not Successful?

The case will proceed to trial.
Directions will be given for the parties to state their position in writing (pleadings).



Usually the plaintiff will have **14 days** to file a Statement of Claim, i.e. a written document detailing the material facts in a logical and chronological sequence. Attach any documents you rely on as evidence.



The defendant will then have **14 days** to file an Answer, i.e. a document which addresses all the issues raised in the Statement of Claim. Attach any documents you rely on as evidence. The defendant can also lodge a counterclaim.



The parties attend Court as specified in the directions to see if the case is ready for a trial, identify witnesses and fix a date for the trial. Further directions for trial will be given in court on that day.



For claims above £5,000.00
The parties must file sworn Affidavits of evidence and a bundle with all documents relied upon by the date ordered in the directions.



Trial

The witnesses will give their evidence and may be asked questions by both parties and the Magistrate. Having heard the evidence, the Magistrate will hear submissions before making a decision.

The Petty Debts Court

Tel: (01534) 440081 Email: mcg@gov.je

MEDIATION

You have been directed to mediation by the Court. This is a free service offered by the Court to allow you to sit down with the other party and an independent mediator, a Relief Magistrate, to see if your dispute can be resolved without the need to go to trial.

If you are a plaintiff and you do not attend the mediation at the correct time, the mediator may dismiss the claim.

If you are a defendant and do not attend the mediation at the correct time, the mediation may give judgment against you for the claim.

Your mediation appointment is booked for:

DAY	DATE	TIME
TUESDAY		14:00
TUESDAY		15:15
THURSDAY		09:00
THURSDAY		11:00

Before your mediation appointment

Seven days before the mediation you should provide the Court and the other party with a written statement about the dispute, attaching a copy of any documents you want to refer to at mediation.

In more complex disputes you may be required to carry out certain steps before the mediation takes place.

At your mediation appointment

At the mediation, any discussions that take place are confidential and cannot be referred to at any time in court. The mediation process does not affect your right to argue a case in court, should the matter not settle.

You are expected to attend the mediation yourself but you may be accompanied by a legal adviser or may, with the permission of the mediator, be assisted at the mediation by a friend and this includes someone translating for you. However, if you attend with a lawyer, this is at your own expense.

At the mediation you will be expected to speak personally about the case as the mediator will want to hear your account of the dispute.

The mediator will inquire into the nature of the dispute and may ask questions. The mediator is there to assist the parties to the proceedings to reach an agreement to settle the claim. The mediator will not decide or rule on the merits of the dispute or express a view as to who is right or wrong.

If an agreement to settle the dispute is reached, then the Greffier will record the terms in writing. The parties and the mediator will each sign this agreement and each party will receive a copy. If the settlement involves the payment of a sum of money then the payment date will be set out.

Any agreement reached at a mediation is a private agreement and does not result in any Court judgment. However it is a legal contract to resolve a dispute. Each party is giving up the right to pursue or defend the original claim by agreeing a settlement. -

After mediation

When the mediation agreement is kept to

There is nothing more for the parties to do. The Court will automatically cancel the action 28 days after the last payment is due.

When the mediation agreement is not kept to

If a party does not keep to the terms of the agreement, the party who was due payment can apply to the Court for judgment against the other party with no further fees charged. A judgment against a person can affect that person's ability to get loans, mobile phone contracts etc.

The party owed money under the agreement must:

- telephone the Greffier to fix a court date; and
- provide the Greffier with a letter addressed to the party who failed to pay, giving that party notice that they have to go back to court. The Greffier will post this letter.

At the Court hearing, the party owed money will ask the Court to grant judgment for the amount due under the agreement.

When no agreement is reached at mediation

If no agreement is reached between the parties, the mediator will issue directions for the next step to begin getting the case ready for trial which is to prepare 'pleadings'.

The mediator will then take no further part in the proceedings.