

## **JUDICIAL MEDIATION**

### **CRITERIA FOR THE IDENTIFICATION OF CASES THAT MIGHT BE CONSIDERED FOR JUDICIAL MEDIATION**

The President and Vice President will determine if a case is suitable for an offer of judicial mediation.

The criteria for selecting cases for judicial mediation are as follows:

1. All jurisdictions will be considered.
2. The hearing length should be at least 3 days, unless there are exceptional circumstances justifying a judicial mediation in a case listed for less than 3 days.
3. The parties must agree to mediation and must be motivated to approach it with open minds.
4. A decision maker for each party with full authority to make a binding agreement must be present at the judicial mediation. The consent of a third party to a settlement may prevent an offer of judicial mediation being made.
5. The issues in the case must be readily identifiable or have been identified.
6. Matters that may affect or hinder the judicial mediation process must not exist, e.g. the dispute may be subject to trade union consultation.
7. None of the parties must be insolvent.
8. The parties must have clear proposals for the disposal of any other extant proceedings between them.
9. There must be no suggestion that the claimant will commence further proceedings, irrespective of the outcome of the Judicial Mediation.
10. Judicial mediation is particularly suitable where the claimant is still an employee of the respondent.

Particular care is necessary in the following circumstances:

- Where there are High Court or other proceedings.
- Where ancillary disciplinary or grievance procedures are still outstanding.
- Where any party is a litigant in person.
- Where there is more than one claimant or respondent and their interests do not converge.
- Where there is more than one respondent, one of whom is exercising the statutory defence.
- Harassment and bullying claims involving high levels of personal emotion.
- Where regulatory or criminal proceedings have been instigated or are likely in relation to the subject matter of the dispute between the parties.