

## View results

Respondent

[REDACTED]

[REDACTED]

Time to complete

This is a public consultation by the Civil Justice Council.

The consultation is open until 24 December 2021 at 10am. **UPDATE - The CJC's consultation on pre-action protocols has been extended for 4 weeks. The consultation will close on Friday 21 January at 12 noon.**

Consultees do not need to answer all questions if only some are of interest or relevance. This form contains branching so you will be able to skip sections that you do not wish to respond to.

Answers should be submitted through the online form. Please note that responses are limited to 4,000 characters per question (around 650 words). Any individual question response longer than 4,000 characters will be cut off at 4,000 characters. If you want to supply any response not in text form please email [cjc.pap@judiciary.uk](mailto:cjc.pap@judiciary.uk) for details on how to do so.

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More options for Responses

Please let us know if you wish your response to be anonymous or confidential.

1. My response is: \*

- ☒ Public
- ☐ Anonymous
- ☐ Confidential

## About you

2. First Name \*

3. Last Name \*

4. Your location (name of town/city) \*

5. Your role \*

- ☐ Judge
- ☐ Lawyer
- ☐ Insurer
- ☐ Paralegal/Legal Assistant
- ☐ Litigant
- ☐ Policy maker/civil servant
- ☒ Dispute Resolution Centre

6. Your job title

7. If relevant, whose interests do you predominantly represent? \*

- ☐ Claimants
- ☐ Defendants
- ☒ Not applicable

8. Your organisation

9. Are you responding on behalf of your organisation? \*

- ☒ Yes
- ☐ No

10. Your email address \*

## Questions relevant to all protocols

11. Do you agree that the Overriding Objective should be amended to include express reference to the pre-action protocols (PAPs)?

- ☒ Yes
- ☐ No
- ☐ Other

12. Do you agree that compliance with PAPs should be mandatory except in urgent cases? Do you think there should be any other exceptions generally, or in relation to specific PAPs?

Yes. Focusing the Court's attention and providing mechanisms for enforcement will drastically increase not only parties' observance of the PAPs, but also will increase the level of engagement and effort which is put forward to attempt settlement prior to issue.

The Courts ability and inclination to impose sanctions will guard against parties merely paying lip service to compliance or worse colluding with each other to say that there has been compliance when there has not. The case of *McMillen Williams v Range* [2004] EWCA Civ 294 illustrates the point. Judges giving directions need to be ready to declare (like the Court of Appeal in that case) "a plague on both your houses"! Courts must (as suggested in the PAP interim report) have the power to raise questions of their own motion over compliance at every stage, including the first directions hearing – and be expected by lawyers to do so. See below as to cost penalties being imposed even at this stage.

13. Do you agree there should be online pre-action portals for all cases where there is an online court process and that the systems be linked so that information exchanged through the PAP portal will be automatically accessible to the court (except for those designated as without prejudice)?

- ☒ Yes
- ☐ No
- ☐ Other

14. Do you support the creation of a new summary costs procedure to resolve costs disputes about liability and quantum in cases that settle at the PAP stage? In giving your answer, please give any suggestions you might have for how such a costs procedure should operate.

This seems sensible, although in our experience it is very rare for there to be a dispute about costs at the conclusion of a mediation which leads to settlement. If costs are not agreed, it is unlikely that settlement as a whole will be agreed, subject to an outstanding dispute over costs.

15. Do you agree that PAPs should include mandatory good faith obligation to try to resolve or narrow the dispute? In answering this question, please include any views you have about the proper scope of any such obligation and whether there are any cases and protocols in which it should not apply.

This should be a minimum requirement, which, if implemented, should be promulgated by the PAPs and associated provisions of the CPR as a much stronger requirement than the current largely unenforced PAP formulation that "the parties should consider" using ADR before issue. Such a minimum requirement might work, although it would still somewhat uncertain in scope and effect, particularly bearing in mind that whatever attempt had actually been made will have by definition failed to achieve settlement, and will therefore be governed by privilege, unless waived or an exception to privilege applies (such as unambiguous impropriety). There will therefore be constraints on the extent to which a court will be able to satisfy themselves, either of its own motion or on the application of one party, that the good faith obligation has been met, where one or all parties refuse to waive privilege. The court may examine how the attempt was set up (see answer to 16 below), but how will the courts police bad faith performance once the attempt starts? Or how will it police a collusive agreement by both parties to say that they were both compliant when they apparently set up a discussion which did not take place? The parties may be happy with doing that, but the overriding objective requires that parties have in mind other court users and are not to occupy unjustifiable court time and space.

The ability to enforce "good faith obligations", has been fraught with difficulty in the English Courts. An alternative to this rather nebulous approach would be to demand a certain measurable standard of "good faith" attempt. As the CJC now takes the view that mediation can legally be ordered or required without breach of ECHR Article 6 rights, one way would be to require any potential multitrack case to be mediated before issue. At least at a mediation the parties will have met with a mediator who will have conducted a formal process which makes settlement possible in a way that a mere exchange of correspondence does not. Clinical negligence claims have a mediation system in place and perhaps a pilot for compulsory pre-issue mediation might be worth trying in this sector. Our experience of pre-issue mediation is that it is growing, and in the mediations conducted by CEDR we have seen no discernible reduction in settlement rates in early mediations.

Alternatively, parties might be required to make a Part 36 offer before issue. If a nuisance offer or no offer is made to a claimant (because liability is firmly disputed) and rejected, the disputing defendant would be expected to apply for summary judgment if the claim is issued.

Small claims track and even fast track cases (would be best served by the creation of a time limited mediation scheme which will allow fees to remain low) or it could be dealt with by online processes.

16. Do you agree that, unless the parties clearly state otherwise, all communications between the parties as part of their good faith efforts to try to resolve or narrow the dispute would be without prejudice? Invitations to engage in good faith steps could still be disclosed to the court demonstrate compliance with the protocol, and offers of compromise pursuant to Part 36 would still be governed by the privilege rules in Part 36.

- ☒ Yes
- ☐ No
- ☐ Other

17. Do you agree that there should be a requirement to complete a joint stocktake report in which the parties set out the issues on which they agree, the issues on which they are still in dispute and the parties' respective positions on them? Do you agree that this stocktake report should also list the documents disclosed by the parties and the documents they are still seeking disclosure of? Are there any cases and protocols where you believe the stocktake requirement should not apply? In giving your answer please also include any comments you have on the Template Joint Stocktake Report in Appendix 4.

Such a report would be beneficial for small claims and fast track cases. For multi-track cases, we think it is likely to be difficult to comply with in a meaningful way due to the complexity of the dispute.

Thought should be given as to how such a report is to be completed and the degree of detail required. This requirement will give rise to considerable delay and dispute between parties following a failure to settle if there is no neutral assistance to prepare this. It will be much easier, for instance, at the end of a mediation where settlement was not reached for the mediator to assist the parties in preparing a joint stocktake report. This is another good reason for considering the promotion of mediation as the gold standard for good faith attempts to settle in high value cases. There is a far higher chance of producing a timely and appropriate stock take report in cases which proceed to litigation.

18. Do you agree with the suggested approach to sanctions for non-compliance set out in paragraphs 3.26-3.29? In particular please comment on:

- a) Whether courts should have the power to strike out a claim or defence to deal with grave cases of non-compliance?
- b) Whether the issue of PAP compliance should be expressly dealt with in all Directions Questionnaires, or whether parties should be required to apply to the court should they want the court to impose a sanction on an opposing party for non-compliance with a PAP?
- c) Whether the PAPs should contain a clear steer that the court should deal with PAP compliance disputes at the earliest practical opportunity, subject to the court's discretion to defer the issue?
- d) Whether there are other changes that should be introduced to clarify the court's powers to impose sanctions for non-compliance at an early stage of the proceeding, including costs sanctions?
- e) Whether you believe a different approach to sanctions should be adopted for any litigation specific PAPs and, if so, why?

- a)  
Yes, in serious dereliction cases.
- b)  
Compliance with the PAP should be directly addressed in the Directions Questionnaires requiring parties to provide details of the mechanism used (joint settlement meeting, mediation, blind bidding, etc). This will help the parties to focus and to consider whether they have fully complied with the good faith requirement. Further, the court should actively review this material and question counsel/ the parties where it is not provided in order to identify collusive failures as well.
- c)  
Yes
- d)  
Yes, there is no reason why costs should not be ordered at the interim stage. The courts have power both to impose summary costs on a defaulting party and to order their immediate payment without waiting for the end of litigation. The use of these powers in a minority of cases where there is non-compliance will ensure that parties actively comply with the good faith requirement.
- e)  
The court's approach to failures to observe the requirements of any relevant PAP should be as uniform and firm irrespective of the sector, with perhaps a willingness to make some allowances when LIPs are involved.
- It should be remembered the PAPs make settlement possible for the benefit of litigants and the court system. Litigation must truly be the last resort. If the relevant PAP is complied with, the great majority of claims will be capable of settlement, which is why compliance with the PAPs is so important and needs to be firmly policed by the courts. A few demonstrations by judges that they intend to adopt this firm attitude to the need for PAP compliance, the legal profession will rapidly adapt to make compliance a priority. The issuing of litigation is unlikely to widen either party's knowledge appreciably given PAP compliance, all it really becomes is a way to threaten opponents towards settlement or submission, all at very considerable cost of time and money and underlying uncertainty. In CEDR's view, lay parties themselves are very often relieved to find a way out of litigation at the earliest opportunity and regret the loss of control over their claim that engagement in litigation inevitably bring.

19. Do you agree that PAPs should contain the guidance and warnings about pre-action conduct set out in paragraphs 3.8-3.13?

- ☒ Yes
- ☐ No
- ☐ Other

20. Do you think there are ways the structure, language and/or obligations in PAPs could be improved so that vulnerable parties can effectively engage with PAPs? If so, please provide details.

LIPs struggle with the CPR and the PAPs. It would be helpful to have a wider working group including practitioners who work frequently with LIPs to ensure that plain and easily understandable language is used. Accompanying step plans or decision trees would also assist so that LIPs can see the information in different formats.

21. Do you believe pre-action letters of claim and replies should be supported by statements of truth?

- ☒ Yes
- ☐ No
- ☐ Other

22. Do you believe that the rule in the Professional Negligence Protocol giving the court the discretion to impose sanctions on defendants who take a materially different position in their defence to that which they took in their pre-action letter of reply should be adopted in other protocols and, if so, which ones?

We do believe it would be beneficial to widen the application of this discretion. Although courts can never really ban a reformulation of a case for good reason. There is a normal costs sanction which can be used to penalise this.

23. Do you think any of the PAP steps can be used to replace or truncate the procedural steps parties must follow should litigation be necessary, for example, pleadings or disclosure? Are there any other ways that the benefits of PAP compliance can be transferred into the litigation process?

Maybe. LoCs and LoRs are in our experience usually very detailed and simply to reformulate them into a statement of case is rather an expensive and unnecessary expenditure of time and (usually) counsel's fees. It would be interesting to know how many LoCs and LoRs are actually drafted by counsel.

## Practice Direction - Pre-Action Conduct

24. Do you wish to answer questions about Practice Direction - Pre-Action Conduct? \*

- ☒ Yes
- ☐ No

25. Do you support the introduction of a General Pre-action Protocol (Practice Direction)? In giving your answer please do provide any comments on the draft text for the revised general pre-action protocol set out in Appendix 4.

This seems sensible, and the draft seems a good first attempt. Doubtless it will be refined in the light of feedback generated by this consultation. We are delighted that the phrase "it is expressly recognised that no party can or should be forced to mediate or enter into any form of ADR" has disappeared from the GPAP. As we say under Q.78, this needs to disappear from all PAPs.

26. Do you agree parties should have 14 days to respond to a pre-action letter of claim under the general PAP, with the possibility of a further extension of 28 days where expert evidence is required? In cases of extension, the defendant would still be required to provide a reply within 14 days disclosing relevant information they had in their possession and confirming that a full reply would be provided within a further 28 days. Claimants would have 14 days to respond to any counterclaim. If you do not agree with these timeframes, what timeframes would you propose?

The pre-action letter of claim is often the first time that a Defendant sees the Claimant's case in a full and comprehensive manner. The proposed time period is not sufficient to allow for the claims to be investigated, relevant documentation gathered and a full response drafted. Whilst this is a particular logistical issue for complex commercial cases, it is also applicable to cases where prior to receipt of the pre-action letter of claim the Defendant is not represented. An initial response period of 28 days with the possibility of a further extension of 28 days will allow sufficient time for the Defendant to obtain advice, carry out the relevant investigations and to respond. Similar timing should be afforded to Claimants responding to Counterclaims. Allowing sufficient time will allow the parties to bring a full response and therefore lend itself to more informed and therefore more successful engagement.

27. Do you think that the general PAP should incorporate a standard for disclosure, and if so, what standard? For example, documents that would meet the test for standard disclosure under CPR 31, or meet the test for "Initial disclosure" and/or "Limited Disclosure" under Practice Direction 51U for the Disclosure Pilot. In giving your answer we are particularly interested in respondents' views about whether the standard should include disclosure of 'known adverse documents'.

Disclosure can be costly and time consuming. Any requirement for disclosure should be balanced with preserving costs. It is not uncommon for costs to be a barrier to settlement, even where parties are agreed on liability and quantum. We defer to practitioners over the details.

## Personal Injury Protocols

The sub-committee were very conscious, as a final point worth stressing, that there is a need for evidence to underpin any changes that might be suggested in response to the questions below.

28. Do you wish to answer questions about the personal injury (PI) protocols? \*

☒ Yes

☐ No

29. Do you agree that there should be a generic PI protocol that incorporates relevant general principles from the general PAP but also identifies PI specific objectives not applicable to other litigation (Part A) with users being directed to a subject specific "Part B" rules for each specialist area?

☒ Yes

☐ No

☐ Other

30. Do you agree that all PI protocols should include a good faith obligation more prominently in the introduction to try to resolve or narrow the dispute?

☒ Yes

☐ No

☐ Other

31. Do you agree that all PI protocols should include an obligation to complete a joint stocktake report/list of issues and should this be:

a) before or after ADR, and/or

b) filed with the Directions Questionnaire?

We agree a PI specific protocol is helpful.

In addition, we strongly suggest that a separate clinical negligence protocol is also included. CEDR has extensive experience with clinical negligence claims, arising from its being a provider to NHS Resolution of a panel of experienced mediators to handle such cases. We have canvassed the views of panel mediators in drafting this response and AvMA (Action against Medical Accidents). We were surprised to see clinical negligence (CN) claims included in the general PI sector of PAPs and are uneasy about this.

In many ways, CN claims are closer in nature to professional indemnity claims than straight PI claims, as there is a need to obtain expert reports to establish liability and causation on both sides, as well as reports (in due course) which deal with condition and prognosis. In motor/EL/PL claims, medical evidence is largely limited to prognosis, typically given by orthopaedic surgeons.

In a number of other ways they differ from general PI claims. The vast majority of CN claims are against public NHS bodies and are case handled by the same defendant organisation (NHS Resolution) rather than a wide variety of commercial insurers. This will be even more so now that Crown indemnity extends to almost all NHS work in GP practices, past and future. Medical notes are always required when considering claims, and for this reason the Letter of Notification was first devised when the clinical negligence protocol was first revised (later adopted in the PI and other PAPs).

Arguments about causation arise in the great majority of claims in ways that simply do not arise in "ordinary" accident claims. Mediation is already well established in clinical claims with a NHS Scheme entering its sixth year, again in a way that is not true for general PI claims.

Serious consideration should be given by those experienced in clinical negligence mediations as to how a separate CN PAP should deal with the questions of apology, explanation and lessons learned in its text, issues which are not relevant (at least currently) to other PI protocols. These may not be within the gift of a court to order, but they arise in virtually every CN mediation and are shown by research to be extremely important to claimants and the NHS and their staff. Proper attention being given to these topics at a pre-trial stage often facilitates settlement and satisfaction for the parties, and thus they are proper topics for consideration in a CN PAP. This is a vivid illustration as to why CN claims need a different pre-trial approach.

We do believe that mediation has far more to offer in PI claims such as motor/EL/PL where claimant lawyer and insurer resistance has stunted its growth, to the detriment (we believe) of claimants themselves. Especially in EL claims with a prior and possibly continuing relationship between employer and employee, and in PL claims between neighbours, mediation is particularly apposite and under-used. In CN claims, there is a particular need for attention to be drawn in the protocol to the exploration of apology, explanation and lessons learned, which both research and experience have highlighted as primary concerns for claimants. Rehabilitation is actually very rarely raised as an issue in mediations of CN claims, as the NHS (or a private provider) is often already engaged in offering further treatment to alleviate the damage caused by breach.

a)

Yes. After mediation would be more effective and it should be compiled with the help of the mediator to avoid the almost inevitable delay and controversy that will follow an unsettled mediation.

and/or

b)

Yes, it should then be filed with the DQ.

32. Do you agree that any revisions to the PI protocols need to be approached with great care to ensure workstreams for multi-track cases are clearly separated out from fast-track work? If so:

a) How could there be effective, referencing to and integration with the Serious Injury Guide where appropriate?

b) How can the current protocols be updated to reflect moderately severe cases as well as catastrophic injury cases despite workflows for each being significantly dissimilar?

We leave the response to this to lawyers practising in this field. It is true to say that formal mediation is most cost-effective in multitrack cases. We believe that it would be possible to devise a scheme for fast-track cases, but small claims would benefit most from inbuilt online dispute resolution processes.

We urge that the PAP go beyond a "good faith" requirement and consider mandatory mediation. We report that there is a clear increase in the mediation of CN claims before issue, with some mediators reporting that nearly 50% of their caseload is of pre-issue claims, and that claimants themselves welcome an early opportunity to explore settlement. This might justify a mandatory mediation pilot prior to issue of proceedings, though this is more a matter for the CPRC perhaps than this consultation.

33. Do you agree that there should be better integration of each protocol with the Rehabilitation Code? If so, should the protocols require a claimant to identify any rehabilitation they consider would be beneficial, with estimated costs if possible and should it require a defendant to supply reasons if they refuse, or fail to provide assistance with rehabilitation?

Again, this is best answered by legal practitioners. As noted above, though there is a major distinction between PI and CN claims, as in the latter rehabilitation is rarely encountered by the time of a mediation.

34. Do you agree the transitional integration clauses for injury claims exiting fixed recoverable processes and slotting into the main injury protocol require greater clarity?

☐ Yes

☐ No

☒ We defer to professionals in the field

35. Is there value in being more specific within protocols about the level of quantification work to be undertaken without a route map agreed with the other party and the timetable for commencing proceedings following an admission of liability?

- ☒ Yes
- ☐ No
- ☐ Other

36. Do you agree the management of disclosure pre-issue needs to be strengthened to encourage greater compliance with the protocol? Paragraph 7.1 of the protocol expects the claimant to identify which documents are relevant and why. Should there be equal obligations on defendants to give reasons why they consider a document is not relevant/why they will not disclose a document?

We reiterate our comments in relation to costs. We have encountered few problems with this in CN mediations. Parties will often disclose privileged reports WP for the purposes of the mediation. Expert reports are rarely required to prove breach of duty or causation in PI claims.

37. Should the claimant's letter of claim state what medical records have been obtained and are available for disclosure and what medical records are still to be obtained?

- ☒ Yes
- ☐ No
- ☐ Other

38. Do you agree that a working group should be established, as a priority, to consider a specific protocol for abuse claims?

- ☐ Yes
- ☐ No
- ☒ Perhaps. There is also the question of the applica

39. Do you agree that a working group should be established to consider a specific protocol for foreign accident cases?

- ☐ Yes
- ☐ No
- ☒ We defer to professionals in the field.

40. Should initiatives with third party organisations such as the expert witness community and HMRC be considered to reduce delays in the resolution of injury disputes?

- ☐ Yes
- ☐ No
- ☒ It is unclear what this would achieve.

41. Should the PI PAPs deal with the question of what to do where a Claimant obtains medical evidence prior to issue but elects not to serve, and if so, what steps should be open to the Defendant?

Reports on breach of duty in CN claims are often not disclosed at mediations prior to issue of proceedings, though their content is usually set out unattributably in the LoC or LoR. This does not seem to create a particular obstacle to settlement. Compromise terms almost always emerge without either side seeing their opponent's breach report.

42. Prior to commencement of proceedings by the Claimant should the Defendant be entitled to obtain a medical report on the Claimant if the Claimant does not disclose a medical report?

- ☒ Yes
- ☐ No
- ☐ Other

43. Do you agree that the protocol should include provision that for the purposes of rehabilitation the claimant solicitors should give reasonable access for medical assessment when requested by the defendant insurer?

- ☐ Yes
- ☐ No
- ☒ This happens as a matter of course in CN claims i

44. If you consider any change to the PI PAP expert evidence process in multi-track cases would be beneficial what would the new process look like?

We defer to those involved in case management.

45. Would an ability to have pre-litigation court case management help dispute resolution in multi-track PI cases?

- ☐ Yes
- ☐ No
- ☒ We are not convinced that this is necessary. Corr

## Housing Protocols

46. Do you wish to answer questions about housing protocols? \*

- ☒ Yes
- ☐ No

47. Disrepair/Housing Conditions PAP - Do you agree that large corporate landlords should be required to publish an address to which PAP letters should be sent?

- ☒ Yes
- ☐ No
- ☐ Other

48. Landlord Possession Claim PAP - Do you agree that the existing PAP should include information for landlords relating to the rules and procedure when a Defendant may lack capacity?

- ☒ Yes
- ☐ No
- ☐ Other

49. Do you agree that the existing PAP should be amended to require landlords to file a checklist at court when issuing a claim, confirming compliance with the PAP and/or that the Claim Form or Particulars of Claim be amended to require the landlord to confirm compliance?

- ☒ Yes
- ☐ No
- ☐ Other

50. Do you agree that the Landlord Possession PAP should be extended to apply to possession claims brought by a private landlord (with the exception of claims brought under the accelerated procedure)?

- ☐ Yes
- ☐ No
- ☒ Unsure

51. If so, do you agree that such a PAP should include information for landlords about the rules as to which bodies are authorised to conduct litigation?

- ☐ Yes
- ☐ No
- ☐ Other

52. Do you agree that the existing PAP should apply to claims for possession on grounds other than rent arrears grounds?

- ☒ Yes
- ☐ No
- ☐ Other

53. Mortgage Possession PAP - Do you agree that the PAP should be mandatory?

- ☒ Yes
- ☐ No
- ☐ Other

54. Do you agree that the PAP should apply to all mortgage possession claims relating to residential property, including 'buy to let' mortgages?

- ☐ Yes
- ☐ No
- ☒ Unsure

55. Do you agree that the PAP should be amended to require that occupiers are notified of steps taken under the Protocol that are likely to lead to a possession claim being made?

- ☒ Yes
- ☐ No
- ☐ Other

56. Do you agree that the PAP should be amended so as to provide standard information to borrowers about the powers of the court?

- ☐ Yes
- ☐ No
- ☒ Usure

57. Do you agree that the PAP should be amended to require lenders to write to the borrowers to inform them of the time and date of the hearing and the importance of attending?

- ☒ Yes
- ☐ No
- ☐ Other

58. Do you agree that the PAP should be amended to make reference to other forms of ADR available, such as the Business Banking Resolution Service?

- ☒ Yes
- ☐ No
- ☐ Other

### Judicial Review Protocol

59. Do you wish to answer questions about the judicial review (JR) protocol? \*

- ☐ Yes
- ☒ No

### Debt Protocol

60. Do you wish to answer questions about the debt protocol? \*

- ☐ Yes
- ☒ No

### Construction and Engineering Protocol

61. Do you wish to answer questions about the construction and engineering protocol? \*

☐ Yes

☒ No

## Professional Negligence Protocol

62. Do you wish to answer a question about the professional negligence protocol? \*

☐ Yes

☒ No

## Proposed low value small claims track

63. Do you wish to answer a question about the proposed low value small claims track protocol? \*

☐ Yes

☒ No

## Any other comments

64. Please include here any other comments you wish to make not covered by the questions already posed.

At last the misleading rubric that has haunted most PAPs can now be removed from all of them. This reads (with some variations):

"it is expressly recognised that no party can or should be forced to mediate or enter into any form of ADR".

This was always questionable in the light of court decisions over costs sanctions (which had the effect of strongly warning that ignoring ADR might well give rise to cost sanctions) and the very dubious use of "should" (an expression of opinion) was also inappropriate and wrong. However, the 2021 CJC Report Compulsory ADR now makes it clear that courts can indeed "force" (i.e. "order") parties to mediate or use other forms of ADR. See also on this point Lomax v Lomax [2019] EWCA Civ 1467. So this rubric must be removed from all PAPs and more accurate wording must replace it.

CEDR's response to the PI section, can to a degree be extrapolated to other areas of this consultation. We had conduct research in the area of PI and CN which is why this section is completed in full.

CEDR was somewhat surprised to see the Business Banking Resolution Service (CEDR is contracted by BBRS to assists in the investigation and administration of disputes) referenced in the Housing Protocols Section of this Consultation, as this is a service aimed at Small and Medium-sized Enterprises in dispute with a Bank, so circumstances for referral under this protocol would be rare. Nevertheless making disputants (and particularly claimants) aware of court alternative resolution services, when appropriate, is always desirable.

