

IN THE COURT

PARTIES:

AND

This form MUST be appended to the C100 application form/ application for Ancillary Relief and completed and signed by an ACCREDITED ADR PROVIDER unless one of the exemptions at 1 below applies

Certificate of Pre Court Assessment as to Suitability for ADR

(DELETE AND COMPLETE AS APPROPRIATE)

- 1. It is not appropriate or necessary for a Pre-Court assessment meeting to take place because:
a) Here insert exemptions from attendance at assessment based on LSC CLS APP7 form; (to be added in detail later, but will include: urgent action (avoidance of disposition, protection from abuse etc), disability, distance, bankruptcy, unavailability of the proposed Respondent)
b) ADR has previously taken place, with the following outcome and the parties confirm it would not be appropriate to make any further attempt at co-operative resolution at this stage.....

(Signed) Applicant or Applicant’s Solicitor .....Date.....

Note: If an application takes place without the parties having attended a meeting, the Court will require an explanation, especially in applications involving children’s welfare. (Reference should be made to the C100 and the Midland Judges’ Statement of Expectations.) Whilst ADR itself is a voluntary process, it is expected that both parties will have taken the opportunity to attend an assessment meeting unless there is good cause.

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- 2. An assessment meeting has taken place and Out of Court Resolution is not suitable at this stage because:
a) .....did not attend
b) both parties attended separate or joint meetings, but do not wish to proceed with ADR
c) the assessor concluded that ADR was not suitable
d) there are allegations of domestic abuse and/ or Child Protection which make ADR unsuitable
3. ADR, namely mediation/ Collaborative process, has commenced but has broken down and it would not be appropriate to attempt further ADR at this stage
4. ADR is ongoing/ concluded, but there are issues which will still need to be determined by the Court as follows.....
5. The parties agree the following additional information can be disclosed to the Court (nb: Mediation and Collaborative Law are confidential, and information can only be disclosed if both parties, preferably with the benefit of legal advice, have confirmed their willingness to lift privilege):

6. Please refer to the attached Outcome Summary

(Signed) .....

Accredited ADR provider

Date.....

ADR Service Contact details:.....

(Neil Robinson’s Note: this is a purely speculative attempt at what might be required as an assessment of suitability for pre-Court ADR. It would probably run to 2-3 sides. At the least, it raises a number of issues of how this process would be undertaken and reported, and by whom. It is based on an amalgam of the LSC CLS APP7 form – on the basis that privately funded applicants should not be deprived of the opportunity afforded to those publicly funded – and the sort of reports being developed in In-Court schemes. “Out of Court Resolution”, “ADR assessment meeting”, “accredited ADR provider” and “assessment as to suitability for ADR” will all require careful definition. I have no idea what attempts have been made within MOJ and elsewhere to devise such a form; I hope thinking is well advanced! NR 11/09)