

Mediation in the Court of Protection

Pre-Mediation Court Order Checklist

This Checklist is intended to be a helpful guide as to the procedural considerations prior to mediation in the Court of Protection. Each case will need to be considered carefully in its own right as to whether any specific recitals, directions, orders and steps are required. It is not intended to be and is not a substitute for legal advice.

- Recitals:
 - Whether the Order is agreed between the parties;
 - Noting the fact of the intended mediation;
 - Referencing Transparency Order/privacy of proceedings;
- Declarations:
 - (Interim) Capacity - to conduct proceedings, to mediate and relevant as to the subject-matter of the mediation;
 - Best interests – regarding mediation and any (interim) regarding the subject-matter of the issues in the mediation;
 - (Interim) Authorisations – regarding any Article 5 or 8 interferences;
- Directions:
 - Evidence – to update the Court following the mediation on:
 - Outcome of mediation (successful/unsuccessful);
 - P's wishes and feelings;
 - (Provisional) Listing – following the mediation;
 - Court Bundle
 - (Joint) Position Statements – outlining:
 - areas of agreement;
 - any areas of outstanding dispute;
 - future case management;
 - Parameters for vacating any listing (including, where appropriate, attendance by telephone where there is an agreed Order);
 - Updating Record of Information Sheet to Transparency Order – to incorporate all attendees to the mediation;
 - Disclosure – relevant permissions for disclosure to the mediator and to those attending the mediation (particularly, non-parties).