

**PROCESS NOTE  
for a *mediated* Telephone Discussion (“mTD”)**

This Note explains how an *mTD* works. It is to be read in conjunction with the Process Chart and the other documents referred to in this note.

The *mTD* process is carried out in the following stages:

**Stage One - Offer**

Defendant's claims handler offers to the Claimant's solicitor to have an *mTD* to settle the claim.

The offer to have an *mTD* will be supported by an electronic *mTD* **Infopack**. The Infopack will comprise:

- a) a completed Defendant's Case Summary mTD Form (with documents, see Note 1 below)
- b) a mTD Agreement signed on behalf of the Defendant plus a copy of the mTD Rules (see Note 1 below)
- c) a link to the mTD page on the TM website which will enable the Claimant's solicitor to peruse and or download the following documents:
  - i. this mTD Process Note explaining how an *mTD* works,
  - ii. a Preparation Note about what information and documents should be sent to the mediator by the Claimant's solicitor and the Defendant's claims handler respectively and
  - iii. a draft Claimant's Case Summary mTD Form.

The *mTD* page on the TM website will also provide information including the CVs of TM's telephone mediators, answers to Frequently Answered Questions and testimonials.

**Stage Two - Acceptance**

Claimant's solicitor agrees to have an *mTD* and sends to the Defendant:

- a) the *mTD* Agreement signed by both Participants (see Note 1 below)
- b) a duly completed Claimant's Case Summary *mTD* Form (with documents, see Note 1 below)

**Stage Three – Case referred to TM**

Defendant's claims handler sends to TM's Registrar:

- (a) Claimant's Case Summary *mTD* Form (with documents, see Note 1 below)
- (b) Defendant's Case Summary *mTD*\_Form (with documents, see Note 1 below)
- (c) the signed *mTD* Agreement (see Note 1 below)

**Stage Four – mTD date fixed**

TM appoints a mediator who arranges a mutually convenient time and date for the *mTD* to proceed and sends to each Participant a signed copy of the *mTD* Agreement

and the mTD Rules. The time for the mTD will be a “slot” or “window” during which time the mTD will have first call on the time of those involved in it.

### Stage Five – the *mediated Telephone Discussion*

The mTD takes place over the allotted time period. The mediator calls one Participant and then the next repeating the process until settlement has been reached or time has expired. A Participant not speaking to the mediator during the “window” must keep the telephone line free in readiness for the mediator’s next call. All conversations between the mediator and the respective Participants are confidential and Without Prejudice.

(Option: by prior arrangement with the mediator the mediator’s first call to the Claimant’s solicitor can be by conference call to the solicitor and the client.)

### Stage Six – Agreement

No agreement that is reached is legally binding until such time as it has been reduced to writing and signed on behalf of each Participant. The Participants have responsibility for drafting, signing and filing an appropriate agreement/Tomlin Order/Consent Judgment as required.

### Stage Seven – No Agreement

If no agreement is reached the mediator can offer a further session if he/she is of the opinion that it would be likely to result in settlement. If that is not the case or the Participants do not wish to have a further session the mTD will be concluded and the mediator will upon request certify by email that an mTD took place and no agreement was reached.

### Additional Notes:

Note 1 **Documents should be sent in electronic form** wherever possible. Where it is required that a signed mTD Agreement be sent to a Participant or to TM then a scanned copy of the signed document should be sent. Alternatively, a copy of the signed document may sent by fax, provided same is sent to a verified fax no with a fax header bearing a contact name and reference. If it is not practicable to use electronic means or fax then DX or post may be used. TM’s postal address is Trust Mediation, 218 Strand (3<sup>rd</sup> floor) London WC2R 1AT. A copy of the current mTD Rules should always be sent with the mTD Agreement.

Note 2 Q: How do I arrange a **conference call**? A: there are a number of options including [www.conferencegenie.co.uk](http://www.conferencegenie.co.uk) .The Mediator usually arranges any such calls.

Note 3 **Multi party cases** are particularly suitable for mTD. The mTD documents can be amended to suit such cases if there are more than three Participants..

Note 4 The pilot scheme proceeds on the footing that the defendant will offer an mTD. Once mTD moves beyond the pilot stage there is no reason why either party should not make such an offer. Further, by prior arrangement with TM, **Claimants may put cases into the pilot scheme.**

**PROCESS CHART**  
for a *mediated Telephone Discussion* (“mTD”)

