



**GUIDANCE NOTE FOR CASE
SETTLEMENT CONFERENCE (“CSC”) IN
CIVIL CASES IN THE DISTRICT COURT**

5 November 2020

**MR SIMON LUI
REGISTRAR OF THE DISTRICT COURT**

Nature of CSC Hearing

- In Chambers (Not Open to Public)
- Similar to Financial Dispute Resolution in Family Court
- Without prejudice
- Parties must personally attend
- Audio recordings and transcripts are not allowed to be disclosed unless with consent of the parties and leave of the Court

Suitable Cases for CSC

- “6. The Court, in deciding whether or not a case is suitable for setting down for a CSC, will take into consideration all the circumstances, in particular the information provided by the parties.

In submitting the Timetabling Questionnaires in accordance with Section C of the Practice Direction 5.2, parties may give such information to the Court for consideration.”

Suitable Cases for CSC

- No hard and fast rule
- Willing to attend mediation but unsuccessful to arrange one
- Amount in dispute v costs (e.g. water leakage & home decoration contract dispute)

Suitable Cases for CSC

- Litigation not the most suitable way to resolve dispute (e.g. family dispute)
- No frivolous and vexatious cases
- Involving unrepresented parties
- Parties with no difficulties attending court personally

Examples of Cases NOT Suitable

- Parties provided good reasons showing that their case is not suitable for CSC.
- Parties produced a mediation report that they have already attended a mediation before a professionally accredited mediator which has lasted for a reasonable duration.

And they or, in cases where they are legally represented, their solicitors certify that they are still entrenched in their positions with no reasonable prospect to settle and there is no material change of circumstances in the meantime.

When Should CSC Take Place ?

- “5. Whilst the Court may consider to fix a CSC at any stage of the proceedings, it is usually directed at the stage of Case Management Summons (“CMS”) or when a consent summons is submitted under Order 25 of the Rule of District Court seeking directions for the further conduct of the case.
- 7. Some cases may benefit from early settlement discussion prior to substantial costs being incurred and the parties becoming entrenched in their positions. On the other hand, for some other cases, no meaningful settlement discussion could be conducted until the exchange of evidence (including expert evidence) is completed.”

When Should CSC Take Place ?

- AFTER CMS / Order 25 Consent Summons
- AFTER exchange of evidence
- If expert evidence is required, AFTER lodging of the joint statement
- BEFORE trial
- AFTER mediation or BEFORE mediation

Duration of CSC

- Initially for 1 or 2 hours
- Generally speaking, it should NOT be more than 1 day in total
- Adjournment

CSC bundle

- (a) a one-page summary of each party's case
- (b) a list of issues
- (c) copies of key documents
- (d) copies of without prejudice correspondence (including any sanctioned offers and payments)
- (e) a copy of the mediation report (if any)
- (f) costs incurred up to the CSC
- (g) estimated costs up to and including the trial

- **At the conclusion of the hearing, the CSC bundle shall be returned and not be retained by the Court.**

The Role of Lawyers in CSC

- Lawyers must be aware of the purposes of CSC and are able to fulfil their duties to facilitate settlement.
- Handling solicitor (or someone equipped with adequate knowledge of the case) must attend.
- Lawyers may provide assistance and advice to their client as and when it is necessary in private.
- Lawyers in CSC should not be an advocate.

The Role of Masters in CSC

- Masters will NOT deal with contested case management issues and no interlocutory applications will be entertained unless they are taken out for the purpose of settlement. Parties should take out interlocutory applications (if any) in the usual way in the chambers list hearings (to be listed before another master) even if there is an on-going CSC.
- Masters will have no further involvement with the case other than to conduct any adjourned CSC.

The Role of Masters in CSC

- Masters could only give 3 categories of order:-
 - (i) an order adjourning the CSC (including procedural directions and costs of and occasioned by the adjournment)
 - (ii) a consent order disposing fully or partially of the case (including an order narrowing the issues to be tried)
 - (iii) directions to progress the case to the next stage (e.g. Case Management Conference)
- See CSFK v HWH, [2020] HKCA 207

Final Remarks

- CSC is a platform for the parties “to communicate constructively”
- CSC should not cause delay to the progress of litigation
- Lawyers play a vital role in CSC
- **CSC is a court hearing during the course of litigation for narrowing down issues and exploring settlement possibilities**