

## National Health Service Mediation Scheme

### Case Study 2

#### Facts

This was a clinical negligence claim brought against the NHS valued at £500,000. The case was filed in the UK High Court before progressing to mediation through party agreement.

The claimant was biopsied for a cheek liaison and reassured it was benign. The claimant was not seen again for another 16 months. When they were examined again, an autopsy revealed the claimant had a cancerous lesion. Consequently, extensive surgery was required to remove the tumour which involved reconstruction of the face, involving cosmetic problems for the mouth and eye as well as cheek.

Part 36 offers were exchanged where the defendant (NHS Trust) offered £30,000 in damages and the claimant countered with £120,000.

#### Amount in Dispute

£500,000

#### Time between Decision to Mediate and Final Outcome

3 months

#### Mediator's Pre-Mediation Work

5 hours

#### Length of Mediation

6 hours

#### Mediator Fees (incl. pre-mediation work)

£2,900

#### Mediation & Case Outcome

The mediator held private meetings with both parties before holding a joint meeting where the hospital expressed sincere apologies for what happened – something that was important to the claimant.

Joint meetings between the two legal teams were facilitated by the mediator whereby offers were exchanged and expert views were examined. A series of shuttle negotiations resulted in the case being settled for £80,000 plus costs. It was also agreed that a full letter of apology would be sent by the Trust to the claimant.