



Pre-mediation Guidance for Parents

Please read this document carefully as it contains answers to some commonly asked questions. If you have any questions or comments which are not covered here, please feel free to give us a call on 020 7837 2900 and we will do our best to help you.

What is mediation?

Mediation is a process where an independent person (the mediator) helps people in dispute work out an agreement. The *parties*, not the mediator, decide the terms of the agreement. Mediation usually focuses on future rather than past behaviour.

Can you explain more about the mediation process?

The way the mediation process works is that both parties are asked to confirm that they are willing to take part, with a view to resolving the disagreement. We then arrange a date for the session to take place, which is convenient for both parties, and book one of our panel of mediators.

Before the mediation, you will need to speak with our office, to explain more about your reasons for going to mediation, and to give an outline of the issues as you see them. We then write up what you tell us, and send this out to you on an 'agree to mediate' form. This form also contains tick boxes covering points such as the confidentiality of the mediation. You read through the form, make any changes you want, and then return it to us, fully signed and ticked. The form must be returned at least a week before the date of the mediation, or we may need to re-arrange the session for a later date. You may find it easier to fax your form back to us- our fax number is 020 7520 0406. You may also write your own 'agree to mediate' form, if you prefer to do this. Please let us know.

Once we have received both parties' signed 'agree to mediate' forms, these are exchanged before the mediation meeting. The mediation then takes place on the agreed date.

What does 'authority to settle' the disagreement mean?

Authority to settle means that you can agree to any agreements made as your child's parent during the course of the mediation meeting, without having to refer to anyone else. The vast majority of parents have this authority simply due to the fact of being parents. If you are separated from your child's other parent, it will be highly useful for him/ her to attend as well- please contact us to discuss on 020 7837 2900. This is especially important if your child doesn't live with you.

What happens if the person coming from the Local Authority doesn't have 'authority to settle' the disagreement and says that he will have to refer my child's case back to a panel for a decision?

We ask that both parties confirm that they do have the authority to settle the disagreement. However, some local authorities make decisions concerning certain matters via a panel and are not usually able to delegate this authority to one or two people. If this is the case, we ask that local authority representatives make us aware of this as soon as possible, so that we can inform you beforehand. It is important that everyone can be clear on the expected outcomes from the mediation meeting.

Why is mediation process confidential?

The mediation meeting itself is confidential in order to encourage a full and frank discussion of the issues. Individual meetings with the mediator are confidential because in order to have trust in the process, parties attending the mediation must feel sure that the mediator is not going to reveal things without their permission to the other party.

All conversations we have with anyone remain confidential, both over the phone, and at the actual mediation meeting. We ask that everyone attending a mediation signs up to agree to keep matters confidential. If parties want to agree amongst themselves to 'break' this confidentiality, and share parts of the discussion outside of the mediation room, then this can be written into the agreement at the end of the mediation session.

What will actually happen at the mediation?

First of all, the mediator may meet separately for a short while with the two parties involved in the situation. Next usually you will move into the same room and the joint discussion will begin. The mediator will ask everyone there to speak briefly about the issues they are bringing to the mediation. Mediation is a chance for you to speak without interruption, and to listen to the other party. This is an opportunity for you to explain the issues as you see them. After this the issues can be explored in more detail, and together you will explore possible solutions to the disagreement. If an agreement is reached, it will be written up at the end of the meeting and a copy will be given to you and the other party.

Why is the mediator there?

The mediator is there to listen, ask questions and help keep the conversation focussed on things that need to be discussed. Mediators don't offer solutions, suggestions or give advice or information. Mediators are impartial and are there to ensure people are treated fairly. Your mediator may, at times, need to ask challenging questions both to you and the other party- this is to help move things forward.

The mediator is not there to pass judgement on the issue or to give a verdict on the situation; this is what happens in a more legal setting, such as a court or tribunal. The mediator is there to help both parties reach their own solutions, and to help to try and find a solution which works for everyone.

What is the point of mediation?

The aim of mediation is to reach a solution which resolves the issues. We always check beforehand that people are willing to negotiate and that they are coming to the mediation fully prepared to resolve the disagreement. If there is no willingness to negotiate or if people are not prepared to work with the other party to try and sort things out, then mediation may not be the best option, and we will be unlikely to offer a mediation session, if this is the case.

Will mediation get me the outcome I want for my child?

Mediation is not about getting what you want; it is about meeting with the other party (either the Local Authority and / or your child's school) to work together to find a solution which works for everyone involved. You may find that, during the course of the mediation meeting, people change their views, and you do achieve what you wanted to achieve for your child. You may change your mind and (for example) decide that you are willing to accept what the Local Authority are suggesting. Or together you may come up with a previously unthought-of solution to the disagreement. As mentioned above, you should be coming to the mediation with a willingness to negotiate and being prepared to resolve matters.

How quickly can mediation be arranged? Can a mediator come along to a meeting we're having at the school/ local authority offices tomorrow or next week?

Once both parties have agreed to take part in mediation, we usually allow two weeks for the necessary paperwork to be completed by us. How quickly a mediation meeting can be arranged also depends on all parties' availability.

Mediators are not able to just turn up to meetings with LAs/ schools and parents; in order for an independent mediator to be present our service and everyone attending the meeting must be clear well in advance that the meeting is going to be a mediation. Tomorrow or next week is usually too short notice in terms of us being able to complete the necessary paperwork and to book an available mediator.

How long will the mediation be?

Mediation meetings usually last up to four hours. This is to give time to make sure all the issues are fully explored, and so that there can be time for the agreement to be written up at the end. Two hours is the shortest time for mediation to be a viable option.

Who will the mediator be?

We have a panel of experienced, professional mediators all of whom are trained in SEN mediation, and have a broad working knowledge of SEN matters. One of the panel will be allocated to your case, and we will send you brief details about her/him before the session. Your mediator will be fully briefed by our office staff on the details of your case.

Where will the mediation take place?

Mediations are always held in the same borough as the one you live in. We will send out details of the venue nearer the date of the session. Ideally, a neutral venue is provided but this is often not possible. Venues usually provided are either the local authority building, or a professional development centre (if one is available), or somewhere else such as a community centre or your child's school. If you have any questions about the venue or any particular requirements (such as wheelchair access for yourself or your supporter), please let us know as soon as possible.

How much will the mediation cost?

Mediation meetings with our service are provided free of charge to parents.

Can I bring a friend or supporter with me?

Yes, definitely. We usually say to parents that it is very helpful if they can bring someone with them. A parent partnership officer can help explain things to you. Likewise some parents bring their partner, or a friend, a neighbour, or one of their child's grandparents with them, and find that this person can be very helpful as support during the mediation meeting.

You must let us know the name and role (if relevant) of your supporter. We will also need your supporter's address, so that we can send her/him details of the mediation, and her/his phone number so that we have a brief chat with her/him about mediation as well. We also need to let both the other party and the mediator know who is going to be there on the day, before the actual meeting.

You can bring a translator if English is not your first language.

If you have other difficulties, for example if you are hearing impaired, please let us know- 020 7837 2900.

My partner and I are attending the mediation and we're bringing 2 or 3 people with us. Is that ok?

Yes- but you must let us know how many people are coming with you and who they are *at least 2 weeks* before the mediation session. This is because we may need to book a second mediator if there are lots of people attending the mediation (remember that the local authority/ school may also be bringing 2 or 3 people). If you don't let us know till a week before or less how many people are coming with you then it may not be possible for the mediation go ahead on the arranged date.

I'm not sure if my friend can come, she'll let me know on the morning of the mediation date or will just turn up on the day if she's free- is that ok?

No- you must let us know the name and contact details for the person/s you are taking with you at least a week before the session, so that we can talk to them before the mediation. We will also need her address, so that we can send her details of the mediation, and her phone number so that we have a brief chat with her about mediation as well. We also need to let the other party and the mediator know who is going to be there on the day, before the actual meeting.

If your friend isn't sure till the day of the mediation if she can come, please call us to have a chat about this- 020 7837 2900. If your friend or anyone else turns up unexpectedly, it might not be possible for that person to join in.

Can I bring my solicitor or legal representative with me?

We usually discourage the attendance of a solicitor or another legal representative, as this goes against the informal nature of mediation. The only time we would allow legal representatives to be

present would be if both parties to the disagreement were bringing legal representatives to the mediation meeting. Please contact us to discuss further.

I want to make an appeal to the SEND Tribunal at the same time as going to mediation- is that ok?

Yes, definitely. If matters are resolved at mediation, then the Tribunal appeal can be withdrawn.

I am confused about the SEND Tribunal and don't understand the time limits nor all the paperwork I've got to fill in. Can you help me with this?

No, we are unable to help parents with filling in paperwork for the SEND Tribunal nor are we able to give advice or information on the Tribunal's time limits. We usually recommend parents contact their Parent Partnership Officer to help with these issues. Please contact us if you don't already have contact details of your local Parent Partnership Officer. We can also give you details of other organisations that can help parents with applying to the SEND Tribunal.

I am not sure I completely understand the SEN process and I think I need some advice and information. Can you help?

No, because we are a neutral independent mediation service we are not able to give advice to people, as this would compromise our neutrality. We do feel that it is important that everyone coming to mediation is informed about the SEN process, to enable them to make informed decisions about the way forward. Your Parent Partnership Officer can give you this information. We also often signpost parents to organisations which provide information and support and help parents to navigate the SEN system. These are the Advisory Centre for Education (ACE), Network 81 and Ipsea (independent parental special education advice). We are happy to give you the contact numbers for these organisations.

If your child has autism, you may also like to contact the National Autistic Society for further advice and support.

How can I make sure my child's views are represented at the mediation?

It is very useful for everyone involved if your child can give his/ her views. There are various ways in which your child's views can be represented at the mediation. This will depend on your child's age and his or her capacity. Some children will be able to write down their views. Other children will prefer to record their views through a drawing or on an audio tape.

Your child may also wish to be present at the mediation meeting. If your child wishes to attend the mediation, we *must* know beforehand that he or she is going to be there. It is unlikely that he or she will be there for the whole session, so you should arrange for someone else (a relative, friend, neighbour etc) to come and collect your child from the venue. Please discuss this with us- 020 7837 2900.

We have guidance for children/ young people coming to mediations, which either your child can read or you can go through with him/her. Visit our website for more information:

<http://tinyurl.com/33393aq> or click on the 'Are you 12 to 18' tab: www.kids.org.uk/mediation

What do I need to bring with me to the mediation? Should I bring all the documents I've got on my child's case?

You should bring with you only the key documents. If you feel more comfortable bringing your complete selection of documents, you are of course free to do so. However, mediation is not about proving your case- it is more about being able to summarize the key points as you see them for negotiation purposes.

Is there anything else you need from me? Do you need to see all the reports in advance?

If your child has a Statement of Special Educational Needs, it would be very useful if you can give us a copy. Even if you are happy with the contents of the statement, it is still often helpful for the mediator as a way of gaining some useful background information on your child. We usually try to

keep mediation meetings as paper-free as possible; however copies of the relevant key documents, such as reports, can often be very valuable.

What do I do if I am upset during the mediation or if I want to talk to the mediator in private?

Anyone can ask for time-out at any point during the session. All our mediators are friendly, approachable and down to earth people so you shouldn't hesitate to tell them if you are feeling upset or anxious about something or just feel that you need a short break. There will usually be time for breaks for everyone during the meeting.

Will the mediation meeting be entirely face to face with the other party?

The emphasis in SEN mediation meetings is on face to face meetings. This is because the aim of such meetings is to have open and frank discussions. If someone starts shouting, the mediator is likely to suggest a break to allow some time out for her/him. The mediator's job is to ensure that mediation is a safe and non-threatening process and you should rest assured that the safety of everyone there will be respected at all times. Parents and professionals have reported to us that people are often more likely to keep calm in mediation meetings, with the presence of an independent third party.

What happens if we don't reach an agreement?

Mediation can generate fresh and original solutions which the parties might not have considered beforehand. Both parties are coming to the session with a willingness to negotiate and to resolve the disagreement. There is therefore a good chance that mediation will result in an agreement, and we find that in around 80% of cases some kind of agreement and plan of action is reached at the end of the session. If no agreement is reached, you can still take another route to resolving matters. The mediator will discuss with the parties what happens next so everyone is clear about agreed notions or alternative routes.

How do I know that the local authority/ school are going to do what they agree to do, if an agreement is reached?

In our experience, agreements are always made in good faith. Agreements reached at SEN mediation are not legally enforceable. However, mediation can often provide a fresh start for everyone involved to help to ensure that any agreements made are kept by all parties. It is not our role to monitor or enforce agreements made by parties at mediation.

I have more questions, which aren't listed here. What should I do?

Give us a call on 020 7837 2900, and we will do our best to help.