



Pre-mediation Guidance for Local Authority Officers and School Staff

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.

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 all 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 parties involved in a disagreement to speak without interruption, and to listen to the other party. This is an opportunity for the parties to explain the issues as they see them. After this the issues can be explored in more detail, and together with the assistance of the mediator, parties explore possible solutions to the disagreement. The mediator may decide to hold separate meetings during the course of the mediation so that he/she can have private discussions with either party. These discussions will be confidential, unless parties agree otherwise.

If an agreement is reached, it will be written up at the end of the meeting and a copy will be given to both parties.

What is my role at the mediation?

Your role is to give your knowledge on your area of specialty. So, if you are a school representative and if a question or point arises on, for example, what the child is like in school, you will be able to give your expertise and share your knowledge with the local authority, the parents and the mediator, which will be very helpful for everyone.

Whatever your professional position, whether you are an Educational Psychologist, Speech Language Therapist, Occupational Therapist, Head Teacher, Class Teacher, SENCo or any other kind of professional, your role may be to talk about the child and to explain how you have experienced her/him in your professional capacity. You may also be attending to explain more about the kind of provision your school could provide for a particular child.

Whether your professional stance agrees with or opposes that of the parents or Local Authority, remember that you are attending the mediation purely in your role as a professional to share your expertise, rather than to take sides.

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

You should bring with you only the key documents, (for example the child's statement and copies of any funding proposals). If you feel more comfortable bringing the complete selection of documents, you are of course free to do so. However, mediation is not about proving the authority/ school's case- it is more about being able to summarize the key points as you see them for negotiation purposes. We usually try to keep mediation meetings as paper-free as possible; however copies of the relevant key documents can often be very valuable.

What is the main aim of mediation? Is it obligatory; do I have to go to the 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.

Mediation is a voluntary process so there is no compulsion on anyone to take part against their will.

Why is mediation process confidential?

The mediation process is confidential because in order for both parties to have trust in the process the mediator must be seen to be impartial. In order to have confidence 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 you have not already done so, you will also be asked to sign a short confidentiality agreement at the start of the mediation.

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.

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 mediators will be allocated for the 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 the case.

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

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 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. Professionals and parents 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 no agreement is reached?

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, another route to resolving matters will still be able to be taken.

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. You may also like to have a look at our website: www.kids.org.uk/mediation for additional information.