

KIDS London SEN Mediation Service

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SEN mediation case study - Getting the conversation back on track

Written by Margaret Doyle

This was a case where communications between the local authority and the parents had stalled, to the increasing frustration of both. The mediation was helpful in identifying what the issues were between them, establishing trust and kick starting a detailed discussion about the wording of the child's statement. The mediation helped improve relations between parties so that they then felt able to agree at the end of the mediation to carry on the detailed drafting discussion in a subsequent meeting between themselves, knowing they could call on the mediation service if discussions stalled later on.

Parties to the mediation:

- Parents of pupil, Micah (name changed for anonymity)
- Head of SEN
- Principal Case Officer

Issues

Micah is a 9-year-old with Autistic Spectrum Disorder. He has a Statement of Special Educational Need. He goes to an independent primary school; the fees are paid by his parents.

Micah's parents were dissatisfied with Parts 2 and 3 of his statement, and also wanted to discuss Part 4, his school placement. They had not yet appealed to the SEND tribunal because they had recently received a revised statement and wanted to mediate to try to resolve as many issues as possible before appealing.

Background

Micah's statement was reviewed at the end of the autumn term, 6 months before the mediation. A proposed revised statement had been sent to his parents, who returned detailed comments and suggestions for changes they wanted.

The case officer revised the statement in light of these comments and sent a revised statement, but parents were not happy with the changes made. They felt their suggestions had not been fully included and that Part 2 did not accurately reflect Micah's needs. They felt very strongly that in order to discuss what provision Micah needed (Part 3), there needed to be shared

understanding of what his needs were (Part 2). They felt that many of the subtleties of his needs had not been captured in the revised statement. They wanted to discuss Part 4 and reach agreement on where Micah would go to school, only once everyone had agreed that Parts 2 and 3 were accurate and specified.

The Head of SEN and case officer were keen to meet with the parents to discuss their concerns with a view to working together to resolve them.

At the mediation

The parents explained how difficult and tiring it had been for them to try to get the statement right.



The Head of SEN spoke of his frustration at how much time had been spent on this, and his view that the statement had been amended to reflect their response to the proposed draft. He felt the statement was quite detailed and he was interested to know what specifically they felt was missing. He wanted to listen.

Both parents acknowledged that the statement had improved significantly since the first proposed statement.

Observation: One of the obstacles appeared to be differing expectations of how detailed a statement needs to be, and how it would be used by those working with the child. Mediation can often be very useful as a way of encouraging parties to acknowledge and accept differing expectations, in a neutral environment.

The parties and mediator then worked together through the beginning of Part 2. The parents shared new information they had obtained, including an observation of Micah in school, which the LA representatives had not yet seen.

Observation: Parties are not always clear about what has and has not been shared. Mediation can often be an opportunity to clarify what new information is available and for the local authority to reassure parents that new information will be taken into account in any revision to the statement.

Parties discussed the detailed amendments that Micah's mum had suggested in an earlier letter, and which she felt had not been taken on board. A useful discussion was held, and agreements were reached on rewording of the statement.

Observation: Mum felt she had invested time and energy into making detailed drafting amendments that then were not considered. It was interesting that the case officer felt she had considered all of them and had spent time on redrafting. There was a communication gap that had led to mistrust and frustration. The mediation provided an opportunity to explore together which drafting issues were most important to Micah's parents.

It became clear, however, that fully agreeing all of the wording would take more time than was available in the mediation. The mediator discussed with

the parties how they might want to continue to work on the statement together, helping them talk through their options. They agreed to set a meeting for six weeks' time, after school holidays.



Parties felt confident enough that trust between them had been sufficiently restored at the mediation to be able to agree to meet without a mediator, knowing that the mediation service was still available if they did need to use it at a later date.

Key issues, outcome and learning points

A key issue was the amount of time available (4 hours) – which although sufficient for most mediations, did not allow for in-depth and detailed discussions of drafting points on Parts 2 and 3 of the statement.

Mediation can be used to get the ball rolling and create a foundation of trust and collaboration, which means that parties are often more likely to feel able to continue their discussions without a mediator present. A mediator can help to establish agreement on how and when those further discussions will take place and what information needs to be exchanged beforehand.

There was the issue of the deadline for appealing the proposed final statement, which was soon after the agreed date of the subsequent meeting. The LA representatives agreed at the mediation that the statement would be re-opened, and it would become a proposed amended statement, allowing time for further amendments. Parents were very pleased about this. Once the statement was finalised, it would trigger a new right to appeal to tribunal if Micah's parents remained dissatisfied with the outcome.

The Head of SEN confirmed that the local authority would continue to support the current funding set out in Micah's statement.

Parties left the mediation feeling satisfied that trust had been restored between them with misunderstandings clarified and an agreed plan of action decided upon.

What did participants say about the mediation?

"The mediation process was led by someone who is professional, impartial, calm and responsive to the needs and views of both parties. I was very impressed."

Case Officer

"Brought both parties together in discussion. The mediator brought balance and picked up on matters that might otherwise have slipped through the net. Documentation following was excellent."

Parent