

Resolving SEND disagreements quickly: KIDS SEND Mediation and Disagreement Resolution Service

What is SEND Mediation?

Mediation is a process where an independent person (the KIDS mediator) helps people in dispute to work together to find solutions. You do not have to go to Mediation, but if you request Mediation, the local authority has to attend.

Our service is for children and young people age 0 to 25. It is free of charge for families, quick and not paper heavy. You do not lose your right to make a tribunal appeal by going to Mediation. Whenever possible, the mediation meeting takes place within about 4 weeks following your request.

Agreements are reached in around 85% of cases. One of the key advantages of Mediation is that agreements can be “wider” than what the Tribunal can rule. For example, transition arrangements can be included.

*From case worker to our service manager in December 21:
Just had a call from the mother of (child’s name). She was extremely complimentary about the service and the efficiency of the team and asked me to pass on the message that "the service has been incredible".*

What disagreements can I resolve through Mediation?

SEND Mediation is for disputes about the Education Health Care Plan process (EHCP): LA decisions not to carry out a statutory assessment, not to draw up an EHC Plan, the contents of the final EHC Plan, decision not to amend a Plan or to cease to maintain a Plan. You can also ask for Mediation if your disagreement is only about Health and / or Social Care provision in the final Plan.

What disagreements can I resolve through Disagreement Resolution (DR)?

All other SEND related disputes can be resolved through DR and at any time during the EHCP process – including when an appeal to the Tribunal has already been lodged. DR can also be accessed for disputes between you and the school.

However, DR is voluntary for all involved. When you make a referral, we will therefore have to check with the other party whether they are willing to come to DR. Mostly, people agree to attend.

How does it work?

To be able to request mediation or lodge a tribunal appeal, **you need to contact us within 2 months of the local authority decision letter.** We then arrange a Mediation Information Advice session (MIAS) at a time that suits you. MIAS is usually provided on the telephone and takes about 20 minutes. You can then decide whether to go to mediation or ask for your tribunal certificate.

We make all the arrangements for your Mediation meeting in consultation with you: for example, we will ask you who should attend the meeting. The mediator will contact you before the meeting to gain full understanding of the case and to help you prepare.

Due to the Covid-19 pandemic, mediations are at present being held online via Zoom, Teams or in other “remote” ways. If you are not familiar with virtual meetings, the mediator will do a test run with you. Many families have told us that they feel more comfortable taking part in a remote meeting.

Mediation is informal and non-adversarial. Parties have to come to mediation willing to listen to each other and then work together to find the best solution. The mediator makes sure that everybody has an opportunity to speak and be heard, and that everybody fully understands all issues before they start helping you to work on possible solutions. Agreements reached are put in writing by the mediator and signed / agreed by everybody. You will receive a copy of the Mediation Agreement.

Who are the KIDS mediators?

We have a team of experienced and fully accredited SEND mediators, who are trained in SEND legislation. The mediator is there to manage the meeting, helping people to listen, ask questions and keep focussed on things that need to be resolved. The mediator is independent and impartial and does not say who is right or wrong. He/she does not make decisions or tell parties how to resolve the disagreement, but makes sure that everybody can speak freely and that the discussions are fair and equal and that the agreements reached are recorded with clarity and detail.

Who takes part in Mediation?

It may be helpful for you to bring someone along for support, for example a family member or friend. Apart from yourself and the local authority, others attending are usually somebody from nursery, school or college; health service (such as Speech and Language or Occupational Therapy) and other professionals who know your child.

It is really important to know your child’s views if they are able and willing to share them. Some children are able to give their views through our Child and Young Person

Form, others prefer to do a drawing or a recording. Your child may also wish to say hello at the start of the meeting or attend parts or the whole mediation. Our feedback shows that many children and young people find it easier to take part in their mediation when the meeting is a virtual rather than face-to-face.

When your child has reached the age of 16, the law applies to them. That means that whenever possible, your child should take part in his/her mediation in some way. We will discuss with you what will work best for your child.

From a parent to one of our mediators in November 21:

“Thank you once again for all of your help, support and guidance during the mediation process, you have been entirely transparent and have made the whole experience smooth and stress free!”

Please note that under the “Families” tab at the top and “Useful Links” you will find first on the list our narrated video presentation which explains how we work with you in more detail. There is also more information about the MIAS.

Another tab at the top has a list of frequently asked questions, and a further one leads you to some case studies.

If you have questions which are not covered here, please give us a call on 03330 062 835 or email senmediation@kids.org.uk

Website: www.kids.org.uk/send-mediation