



Mediation Guidance for Education Providers

**If you have any questions which are not covered here, please give us a call on
03330 062 835**

What is mediation?

Mediation is a process where an independent person (the mediator) helps people in dispute find agreement. The *parties*, not the mediator, decide the outcome. Mediation usually focuses on the present and the future rather than the past.

Education providers' role in mediation

Under the new legislation, schools and other education providers are not a party to mediation but will often participate in a role of professional adviser to assist the parties to reach an agreement that meets the needs of the child or young person. They may support either (or neither) parties' views but their main role is to focus on the needs of the child / young person and to give their professional view and advice about that aspect.

We help prepare all participants for the mediation. We will have a telephone conversation with you before the joint meeting to explain the process and answer any questions. We will also ask you to sign our "agree to mediate" form at the start of the meeting. This form contains tick boxes covering points such as the confidentiality of the mediation.

How does it work?

Once parents or young person (PYP) have decided to go to mediation, we let the local authority / CCG know. They have to take part and the mediation needs to be arranged in 30 calendar days from when we have informed them.

We then agree with everybody the date and time for the session to take place and appoint a mediator.

The meeting will take place somewhere local which is convenient for all the parties. The meeting will be about 3 to 4 hours long. Sometimes the local authority can make meeting rooms available but we will only agree to this if parents or young person are happy with the arrangement. If you have any particular requirements (such as wheelchair access for yourself or your supporter), please let us know as soon as possible.

Before the joint meeting, the mediator may meet with you separately for a short while to introduce him/herself and to answer any questions you may have. Then everybody usually moves into the same room and the joint discussion begins. The mediator will ask everyone to speak briefly about their role and the issues they are bringing to the mediation. You will be able to speak without interruption, and will be asked not to interrupt others when they speak. After this the issues are explored in more detail, and together you will think about 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 the parties and participants who need to help put the agreements in place.

Who are the mediators and what do they do?

We have a panel of experienced SEN mediators, who are trained in SEN legislation. They are fully independent from the local authority. Your mediator will be fully prepared on the details of the case.

The mediator is there to listen, ask questions and help keep the conversation focussed on things that need to be resolved. The mediator does not offer solutions or give advice. The mediator is independent and impartial and does not say who is right or wrong. He / she is there to ensure people can speak freely and that the discussions are fair and equal. Your mediator may sometimes ask difficult questions both to you and others. This is to help with clarity about the disagreement and to help move things forward. It is also to ensure that the agreement will work.

How quickly can mediation be arranged?

How quickly a mediation meeting can be arranged depends on parties' availability. However, it must take place within 30 days from us telling the LA that PYP want mediation if at all possible. If it cannot take place in that time PYP can decide to agree to a later date or we issue the Certificate so they can make an appeal to the Tribunal.

Can I bring a colleague / colleagues with me?

Yes, definitely. We will discuss with you who should attend whilst trying to keep overall numbers low.

Will mediation get parties the outcomes they want?

Mediation is not about getting what parties want. It is about meeting with the other party to work together to find a solution which works for everyone involved, especially the child. You may find that people change their views based on the information you can provide. Or together you may come up with a completely different solution. Everybody has to come to mediation willing to listen to others and then to work together to find a solution.

Can PYP make an appeal to the SEND Tribunal at the same time as going to mediation?

Yes. They need a certificate to make a tribunal appeal following a Mediation Advice session. If later on matters are resolved at mediation, PYP can withdraw their tribunal appeal.

What does 'authority to settle' mean?

Authority to settle means that parties can decide any agreements made without having to ask anyone else. "Authority to settle" specifically means that the local authority needs to send somebody to mediation who can make decisions about the issues where there is disagreement.

Why is mediation confidential?

What is said during the mediation meeting is confidential so that everybody is able to speak frankly. All 1:1 conversations we have with participants also remain confidential, unless you agree to share that information with others. The written agreement at the end of the meeting is usually NOT confidential as it may need to be shared with others who work with the child / young person. For example their SENCO or form teacher.

What do I need to bring with me to the mediation?

You should only bring the key documents. If you feel more comfortable bringing all your documents, you can do so. But please remember, mediation is not about proving a case - it is about looking at the problem together and finding solutions for the future.

What do I do 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. You can tell them if you are feeling upset or anxious about something or need a short break. There will usually be time for breaks for everyone during the meeting as well.

Will the whole meeting be face to face?

SEN mediation meetings are mainly face to face meetings. This is because mediation is about having open and frank discussions, conducted in a civil manner. The mediator's job is to ensure that mediation is a safe and fair process.

What happens if parties don't reach an agreement?

Mediation can generate fresh and original solutions which the parties might not have thought about. 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. If no agreement is reached, they can still take another way to resolve matters, for example having another meeting with PYP or involving other local agencies such as SENDIASS (former PPS). However, where no agreement is reached the service is obliged to issue a certificate for PYP so they can make an appeal to the tribunal (education matters only, not health).

How do I know that agreements are kept?

Agreements reached at SEN mediation are a contract between the parties but not legally enforceable. In our experience, agreements are made in good faith and are very rarely broken because parties have worked out together what they want to do.

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

Give us a call on 03330 062 835, and we will do our best to help.