

Mediation and Disagreement Resolution for Special Educational Needs and Disabilities (SEND)

Introduction

- Mediation or Disagreement Resolution (DR) is a relatively informal meeting between a child/young person's parents or carers and the Local Authority.
- The meeting is chaired by an Independent Mediator who does not work for the Local Authority and does not know the family involved to promote impartiality. Independent Mediators have knowledge of SEND Law.
- Mediation or DR are free for families to attend and not compulsory. The LA incurs the costs of the mediation or DR.
- Mediation and DR used to take place face-to-face but have moved online during Covid and have continued as virtual meetings between parties.
- Although mediation and DR are used interchangeably, there is a subtle difference between the two. Mediations are timebound as an appeal could still be lodged within two months of the LA's decision if the matter is not resolved. Whilst DRs do not carry appeal rights and could take place outside statutory decisions.

When can families ask for a mediation or DR?

Mediation or DR generally take place following these decisions:

- Refusal to undertake an Education, Health and Care (EHC) Needs Assessment or EHC Needs Reassessment;
- Refusal to issue an Education, Health and Care Plan (EHCP) following a Needs Assessment;
- Content of an EHCP including Sections B and/or F and I.
- Decision to cease to maintain an EHCP;
- Families may also wish to discuss matter relation to Health or / and Social Care alongside the educational content. A representative from the Integrated Care Board and / or social Care must be involved to advise accordingly.

What happens during a mediation or DR?

- Families can invite an advocate or a school representative for support as appropriate and must inform the mediation service accordingly.
- The LA will be represented by a Senior Member of its SEN Team. The LA's representatives have decision making powers, meaning that they can make decisions on behalf of the LA during the meeting. This shows the LA's willingness to resolve issues in dispute where possible without the need for an appeal to be lodged.
- Discussions during mediation are kept confidential to allow for an informal, frank and honest exchange between parties.
- The only resulting document from a mediation or a DR is an Action Plan, which must be agreed between both parties.

References

Further information on Mediations and Disagreement Resolutions is available:

- Regulation Sections 52 to 57 of the Children and Families Act 2014
- Regulations 32 to 42 of the Special Educational Needs and Disability Regulations 2014
- Chapter 11 of the SEND Code of Practice