

Mediation

This factsheet tells parents, carers and young people about mediation and the legal duties of local authorities to provide independent mediation services.

What is mediation?

Mediation is a voluntary process during which a neutral third person (a mediator) helps those involved in a disagreement or dispute to work towards an agreement that is acceptable to everyone involved.

Mediation can help rebuild relationships and communication between parents and schools or local authorities by focusing everyone on the best interests of the young person.

When might I need mediation?

Under the law¹, local authorities must offer and provide independent mediation to parents and carers of children and young people with additional support needs if there is disagreement about how those needs are met which cannot be resolved through discussion.

The law also states that you must have the opportunity to be involved fully in discussions and decisions about your child's learning. You want what is best for your child and you have unique knowledge and experience that can help others understand your child's support needs. So you have a key part to play in your child's education, and your views and wishes should be taken into account.

Normally, most disagreements will be resolved with the school or the local authority. However, if this is unsuccessful, you have a right to ask for independent mediation.

The local authority should give you information about the independent mediation service it has in your area, or in the area where your child attends an local authority school, if this is not in your local authority area. Under the law, local authorities must provide mediation services that are completely independent.

You must also be told that taking a disagreement to mediation will not affect your entitlement to refer your disagreement, or any other concern, to a formal or statutory review. This means you can still use other routes to resolve disagreements such as the appeal system,

¹ The Education (Additional Support for Learning) (Scotland) Act 2004 (as amended)

independent adjudication and the Additional Support Needs Tribunals. For more information about these routes, see **Enquire factsheet: Resolving disagreements**.

Mediation is voluntary, which means no one can force either party to use mediation.

Mediation may not always be appropriate, for example, if the disagreement is not about additional support needs. If so, you should follow normal school and local authority complaints procedures.

How can mediation help?

Mediation can open communication and help the parties involved look at the issues, explore options and come to a workable solution. This promotes good relationships and encourages you and your local authority to participate in decisions about your child's support. It is also much easier to resolve problems and avoid new ones by talking things through as early as possible.

Some issues suitable for mediation are:

- school placement
- level of provision for a child with additional support needs
- exclusion
- provision of transport.

Mediation can also be an opportunity for everyone involved to hear your child's views, where appropriate.

What you will need to do during mediation

You need to openly discuss the issues concerning your child's education by sharing any information you think is important and relevant. You must also be prepared to listen to the views of the other people involved, and consider all options for finding a way forward.

The mediator's role

A mediator is a trained, independent, neutral third party who will:

- work with service providers (for example the school or local authority) and families to resolve disputes
- help communication and encourage mutual understanding
- help parties reach the outcomes or agreements themselves
- establish a basis for effective parent-professional partnerships.

A mediator does not:

- make decisions or recommend solutions
- represent a parent, child, young person or local authority.

What happens in mediation?

During a mediation session the mediator will make sure each person gets an opportunity to talk about their concerns and is listened to. Past, current and future plans will be discussed, but the goal will be to reach agreement on the most appropriate plan or outcome for your child.

Where will mediation take place?

The mediation service will identify a neutral venue. It must be easy to get to for everyone who needs to attend.

How do I find out who is providing mediation in my area?

Your local authority should have published information about their independent mediation arrangements. Your child's school and the local authority should tell you what options are available to you for resolving disagreements.

Enquire can also provide contact details for the mediation services in your area. Phone the Enquire helpline on 0345 123 2303 or see www.enquire.org.uk/service

The independent mediator for your area will be able to answer your questions and give you more information about mediation.

Where to get more information

Publications

The parents' guide to additional support for learning, Enquire (2018)

Enquire factsheet: Resolving disagreements (2018)

Enquire factsheet: Taking part in your child's education (2018)

Mediation in education - a user's guide Children in Scotland (2011)

www.childreninscotland.org.uk/wp-content/uploads/2017/09/ResolveASL_A5_leaflet-1.pdf

Organisations

Contact Enquire or your education authority for details of mediation services available in your area.

For general information about mediation, contact Scottish Mediation Network.

Telephone: 0131 556 1221

www.scottishmediation.org.uk

ENQUIRE

Helping you understand additional support for learning

Enquire is the Scottish advice service for additional support for learning. We provide independent and impartial advice to parents and carers, to practitioners in education, social work and health services, and to children and young people themselves.

www.reach.scot offers advice to young people struggling at school. With practical tips on what can help and young people sharing their views and experiences on all sorts of life issues, Reach offers the 'go-to' source of advice to help pupils make the most out of their education.

This factsheet has been awarded the Clear English Standard.



Contact details

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Enquire factsheet: Mediation © Enquire January 2018



Enquire is managed by Children in Scotland and funded by the Scottish Government