



## **MEDIATION – a brief guide**

### **What is mediation?**

Mediation is a statutory service commissioned by Halton, since September 2014, which is designed to help settle disagreements between parents or young people and local authorities over EHC needs assessments and plans. This is in line with the requirements of the Children & Families Act, 2014, associated Regulations & the Code of Practice.

Parents and young people who wish to make an appeal to Tribunal may do so only after they have contacted an independent mediation adviser, to see whether mediation is a suitable way of resolving the disagreement.

This requirement does not apply where the appeal is solely about the name or type of the school, college or other institution named on the plan. You are advised to use other disagreement resolution methods, as outlined in the Local Offer.

Mediation can also consider health and social care aspects of the plan although it is not possible to appeal to Tribunal regarding these parts.

Mediators must have sufficient knowledge of the legislation relating to special educational needs, health and social care to be able to conduct the mediation, must be fully independent of the local authority and have received accredited mediation training.

### **Mediation Advice**

Upon contacting the mediation advisor, they must explain to the parent or young person that:

- mediation is an informal, non-legalistic, accessible and simple disagreement settlement process run by a trained third party, designed to bring two parties together to clarify the issues, and reach a resolution, with information always being factual and unbiased
- the parent or young person's use of mediation is voluntary
- there are specific timescales
- the local authority will pay reasonable travel expenses and other expenses to the parent or young person taking part in mediation

No-one should be pressurised into going to mediation. The requirement under the Act is simply to obtain mediation advice.

If, on receiving that advice, the parent or young person does not wish to pursue mediation, they should inform the mediation adviser who must issue a mediation certificate within 3 working days. The parent or young person can then proceed with their Tribunal appeal.

Where the parent or young person decides that they do wish to go ahead, the local authority must arrange for mediation within 30 days.

Where mediation is pursued before making an appeal to the First-tier Tribunal, the mediation adviser must issue a certificate to the parent or young person within 3 working days of the conclusion of the mediation.

### **Mediation in relation to health care issues**

Where a parent or young person has informed the local authority that he or she wishes to pursue mediation and the mediation issues relate solely or in part to the healthcare provision the local authority must notify the Clinical Commissioning Group (CCG) within 3 working days of what the mediation issues are. Mediation must then take place within 30 days of receiving notification from the local authority.

### **Time limits**

Parents and young people have one month from receiving the certificate to register an appeal with the Tribunal or two months from the original decision by the local authority, whichever is the later.

### **Effective Mediation**

The mediation session should be arranged, in discussion with the parents or young people, at a place and a time which is convenient for the parties to the disagreement. The body arranging the mediation must inform the parent or young person of the date and place of the mediation at least 5 working days before the mediation.

The mediator should play a key role in clarifying the nature of the disagreement and ensuring that both sides are ready for the mediation session. The mediator should agree with the parties on who needs to be there.

The local authority and health commissioner representative(s) should be sufficiently senior and have the authority to be able to make decisions during the mediation session.

Both parties should be open about all the aspects of the disagreement and not hold anything back for a possible appeal to the Tribunal on the SEND aspects of EHC Plans.

Parents or the young person may be accompanied by a friend, adviser or advocate. The child may attend if parents request this & the Local Authority agrees

If the child is not attending (& the parents are party to the mediation), then the mediation adviser should take reasonable steps to obtain the views of the child.

The Code of Practice states that, generally, legal representation should not be necessary at the mediation.

### **Further Information**

Please note that this information provides a brief guide only. For more detailed information and guidance, you are advised to consult:

- The Special Educational Needs & Disability regulations 2014
- Special Educational Needs & Disability Code of Practice: 0 to 25 years

In Halton Mediation services are provided by:

### **Kids Mediation and Disagreement Resolution Service**

Further details can be on the [Local Offer under 'Mediation Services'](#)

#### **Contact us**

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