



Mediation Guidance

Mediation is a less formal way of trying to settle the dispute between you and the LA. It involves a meeting between you, the LA and an independent mediator, who will try to help you reach agreement on the points of dispute. The mediation may also be attended by other relevant parties such as representatives from the child or young person's school or college. It is free of charge.

In most cases you will need a mediation certificate before you can appeal. You can get this in two ways:

- Undertake mediation, and if it does not settle all of the points in dispute, you will be issued with a certificate confirming you took part in mediation; or
- Speak to a mediation advisor, and you will be issued with a certificate confirming you have been told about your right to mediate but you do not want to do so.

If you do not wish to mediate, you will need to ring the number the LA gives you on their decision letter (there should be alternatives if you cannot use a phone) and talk to a mediation adviser. They will tell you more about how mediation works, and if you are not interested you can simply explain that you do not want to mediate. They will then provide a certificate. If you have had a lot of discussions already with your LA you may feel mediation would be of little use and you want to save time, get your certificate, and appeal right away.

If you have never had a proper discussion with the LA about why they have reached their decision, mediation may help. You might also consider it to give yourself more time to appeal. The deadline is two months from the date of the decision letter, or one month from the date a mediation certificate is issued, whichever is the later.

If you attend mediation and the LA agrees to settle the case and take the steps you are asking for, you must ensure that you get their agreement in writing, setting out clearly what they have agreed to do. Regulations 42 and 44 of the Special

Educational Needs and Disability Regulations 2014 set out certain timescales that an LA must stick to after mediation, if they have agreed:

- To carry out an EHC needs assessment: the LA must notify the parent or young person that it is starting within 2 weeks, then either let the parent or young person know they have decided not to issue an EHC plan within 10 weeks, or send a finalised EHC plan within 14 weeks
- To issue an EHC plan: the LA must issue the draft plan within 5 weeks and the finalised EHC plan within 11 weeks
- To change the name of a school in an EHC plan: the LA must issue the amended EHC Plan within 2 weeks
- To amend an EHC plan: the LA must issue the amended EHC Plan within 5 weeks

If the LA agrees to take certain steps in a mediation agreement but then fail to do so, they are acting unlawfully. This could be challenged via judicial review.

Preparing for a Mediation Meeting:

Before you attend a mediation session you should prepare all of the information and evidence that you feel supports your request. This can include school reports /IEPs / home schools' diaries examples of your child's work. Reports from an Educational Psychologist , Speech and language therapist or other professionals.

Take of this information along with you and make a list/ note of the points that you want to discuss and back these requests up with the evidence.

You can request that a representative from your child's school or college comes along and you are entitled to have a supporter advocate present at the meeting to support you.

The Mediator will most likely want to chat with each party before the hearing to understand what they would like to get from the session. When the mediation is about a child there is duty on the mediator to take reasonable step to ascertain the view of the child.

The Mediator cannot give you legal advice they are there to facilitate the conversation and will not take sides.

You will be given the opportunity to discuss your points and the Local Authority will need to listen to these and consider your requests.

At the end of the session the Mediator will write a summary of the conversation and ask that both parties sign this.

If an agreement or partial agreement has been reached the results will usually be entered into a mediation agreement which will be legally binding on the parties.

If an agreement is not reached you will be issued a Mediation certificate to send off with the appeal form to register an appeal with SENDIST Tribunal Service.

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