

Essential Mediation

resolution wrapped up

Special Educational Needs Mediation: Mediation for Health Commissioning Services



independent
impartial
confidential

www.essentialmediation.co.uk

At a time of increasing legal challenges and as the costs of litigation become prohibitive, mediation is becoming an increasingly popular and important method of resolving disagreements.

Essential Mediation is a specialist practice that provides independent, impartial and confidential mediation services to resolve disputes around Special Educational Needs (“SEN”) provision.

Essential Mediation is committed to promoting mediation as a viable alternative to the excessive personal cost in stress, time and money caused by unnecessary litigation, lack of effective communication and unresolved conflict.

Special Educational Needs Mediation

Disputes between parents, young people, education providers, health care services and local authorities concerning the provision to be made for children with special educational needs (SEN) can be contentious, resulting in appeals being made to the Special Educational Needs Tribunal. This can be a costly, drawn out process for all parties and may result in strained relations thereafter which are not in the child’s interests.

Under new legislation, the Children and Families Act 2014, parents/carers and young people who wish to make an SEN appeal to the First-Tier Tribunal (SEND) may only do so after they have contacted an independent mediation service. The only exception to this requirement is if the appeal is solely about the name of the school or other institution, the type of school or institution or the fact that no school or institution has been named.

Therefore the Government requires all local authorities and health commissioning services to provide an independent mediation service to help when parents/ carers, young people, schools, post 16 providers, health care services and the local authority cannot agree on how to meet a child’s special educational needs.



Mediation: Health Care Issues

The Children and Families Act 2014 indicates that it is the local authorities' duty to notify the child's parent or the young person of the right to mediation which has been split into two subsections:

- Mediation: health care issues;
- Mediation: educational and social care issues

If the mediation issues are limited to the health care provision specified in the new Education, Health and Care (EHC) plan or the fact that no health care provision, or no health care provision of a particular kind, is specified in the plan, it is the responsible commissioning body not the local authority that must arrange for mediation between it (or them) and the parent or young person.

So what is mediation?

Mediation is a voluntary, confidential process where people involved in conflict are helped by an independent specialist mediator to resolve their problems collaboratively. The goal of mediation is for the parties to speak with each other in an open and honest manner to try and reach a resolution that is acceptable to all parties in dispute.

The mediator uses techniques to facilitate communication, problem solving and negotiation between the parties in a safe and constructive environment, and deploys them from a position of independence and neutrality making progress possible.

The mediator never takes sides or tells the parties what to do, but helps the participants reach a solution that they are happy with which is then drawn up into a written agreement.

How can mediation help?

This process:

- Ensures the relevant people and information are brought together;
- Provides a safe, secure environment to allow communication to take place freely;
- Focuses people on the issues and needs;
- Helps overcome deadlock and emotional blockages;
- Assists the negotiation and makes all parties part of the solution;
- Rebuilds and safeguards relationships.



What is the mediation process?

Following initial contact from one or both of the parties the mediator will contact the parties by telephone to introduce him/herself, to ascertain a brief outline of the dispute(s), to set a date for the mediation day and deal with any preliminary queries.

A proposed Mediation Agreement form will be prepared and circulated to the parties for approval. Each party will be invited to provide the mediator with a summary of the issues in dispute along with any other relevant documents so that the mediator can have some background information prior to the mediation day itself.

The mediation day usually starts between 09.00 and 10.00. There is no formal structure to the mediation day, unlike that of a tribunal or court hearing. The day will normally begin with an individual meeting between the mediator and each party when the mediation agreement is signed (if not already) and the format of the day is discussed. Normally this is followed by a joint meeting at which time each party sets out their views on the dispute and the mediator can confirm the ground rules and establish an agreed way of working forward.

Throughout the course of the day, the amount and type of meetings will vary according to the needs of the parties and the organisation which the mediator believes will be most effective. The mediation will continue until either a resolution has been reached, the parties agree to take a break and resume on another occasion, or one party chooses to abandon the mediation process.

Why appoint us

At Essential Mediation, we can provide an alternative to the mediation services currently offered as follows:

- Mediators who have worked directly within the SEN legal framework and understand the complexity of the issues from the perspective of parent, local authorities and the health care services;
- Mediators who have direct experience working with parents, schools, professionals and health care services;
- Mediators who have direct experience of appearing before the Special Educational Needs and Disability Tribunal and therefore have the required knowledge and expertise to be able to effectively mediate disputes;
- The process offered by Essential Mediation is facilitated solely by a mediator and not an administrative assistant.

Services we provide

At Essential Mediation we provide a fully inclusive mediation and disagreement resolution service which includes:

- Individual mediations and disagreement resolution meetings;
- The provision of dedicated and specialist mediators with experience of the SEN framework and an understanding of the legal framework;
- The administration of the mediation process, including arranging a suitable and accessible venue, contact with the parties before and after mediation and drafting a mediation agreement;
- Mediation telephone information line;
- Mediation information pack for parents, schools, local authority officers and health services;
- Mediation and disagreement resolution services delivered through specialist packages.

Mediation packages

In SEN disputes, the local authority or health commissioners are required to fund the mediation service and in future will be required to fund parental expenses. Therefore, it is essential that where mediation is engaged it is cost effective, accessible for parents and will be outcome focussed such that it will not be used where neither party is prepared to compromise.

Essential Mediation offers a range of packages to suit individual health care services requirements;

- Gold;
- Silver;
- Bronze;
- Individual mediation and disagreement resolution sessions;
- Mediation telephone information service.

Health commissioners can subscribe to one of our packages either as an individual service or in collaboration with other local authorities and/or health commissioners so that the expense can be shared.





If you would like further information regarding the cost of mediation and the subscription packages on offer then please contact us by email: admin@essentialmediation.co.uk or call: 01908 246023

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