

SEND mediation and disagreement resolution
Information for solicitors

Special educational needs & disability mediation and disagreement resolution service

The Together Trust's mediation and disagreement resolution service (MDRS) is designed to help settle disagreements surrounding the provisions for a child or young person aged 0 to 25 years with special educational needs and disabilities.

When a parent, carer or young person is dissatisfied with the provision made within the SEND legislation (The Children & Families Act 2014) they have the right to request a meeting with a local authority representative to discuss the matter, either through mediation or the disagreement resolution. The local authority must attend a mediation meeting, however attendance at a disagreement resolution meeting is voluntary for all parties.

Mediation can take place following decisions by a local authority:

- Not to carry out an education, health and care (EHC) needs assessment
- Not to issue an EHC plan following a needs assessment
- The contents of a final EHC plan - mainly sections B, F and/or I
- Following a decision not to amend an EHC plan or
- A decision to cease to maintain an EHC plan.

Disagreement resolution applies to any aspect of special educational needs and disability (SEND) regardless of whether or not the child or young person is being assessed for or has an EHC plan. It can be used at any time with the agreement of the parties involved. Disagreement resolution covers a range of disagreements including:

- The performance of duties
- Any aspect of SEND provision
- Health and social care disagreements during the processes related to an EHC needs assessment.

Solicitors at mediation or disagreement resolution meetings

Families or young people may ask that a solicitor comes to mediation with them, to act in a supporting capacity. We would request that solicitors enter the spirit of mediation with the aim of supporting mutually agreed resolutions between the parties. This will allow all parties to work comfortably together towards a positive and productive outcome. The mediator will remind any attendees, of the ground rules and roles within mediation to ensure the process is fair and equal for all parties. Mediation allows the main parties to work towards mutually agreeable outcomes and is therefore different to a SEND tribunal.

What you can expect to happen next

When the meeting has been arranged the mediator will contact the main parties to the dispute, usually during the week before the meeting, to introduce themselves, discuss issues and start to form an agenda for the meeting. They will also explain their role and the structure of the meeting. It would be beneficial to have a joint preparatory call with the parent/young person and solicitor.

Although a mediation or disagreement resolution meeting is part of the SEND legislation, we endeavour to put all parties at ease and keep the meeting as informal as possible. The mediator can assist with this during preparatory calls and by offering breaks during the meetings if required.

The legislation

For more information about mediation and disagreement resolution please refer to the Children & Families Act 2014 and/or the Special Education Needs & Disability Code of Practice 0-25 January 2015.

For more information call us on 0161 283 4848 or email us at drs@togethertrust.org.uk.

Visit us at <https://www.togethertrust.org.uk/mediation>