

Mediation

Enquire factsheet 9

This factsheet aims to inform parents, carers and young people about mediation and the legal requirements on education authorities to provide mediation services.

Arrangements for mediation

The Education (Additional Support for Learning) (Scotland) Act 2004 (the ASL Act) places duties on education authorities to provide access to independent mediation for resolving disputes with parents and carers of children and young people with additional support needs.

The ASL Act also provides that you must have the opportunity to be involved fully in discussions and decisions about your child's learning. As a parent you want what is best for your children and have unique knowledge and experience to contribute to understanding your child's support needs. You, therefore, have a key role to play in your child's education and account should be taken of your wishes and the perspective you bring.

Through good practice most disputes and conflicts are resolved within the school or the education department. However, if a disagreement cannot be resolved at school or education authority level parents, carers and young people should be informed of their right to access independent mediation.

Your education authority should give you information about the independent mediation service it has in place in your area.

You must also be told that taking a disagreement to mediation in no way affects your entitlement to refer any matter to other formal or statutory review, if appropriate. This means that you can still access other processes to resolve disagreements such as dispute resolution by independent adjudication and the Additional Support Needs Tribunals.

Mediation is a free service to parents, carers and young people

Mediation is a voluntary process – that means no one can be forced to mediate.

Mediation may not be appropriate in all cases, for example, if the disagreement with the school or authority is about issues other than additional support needs. In such situations, you should follow normal school and education authority complaints procedures.

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 finding a mutually acceptable agreement.

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.

Factsheets on other topics are available.

How can mediation help you?

The mediation process can open communication and assist the parties to look at the issues, explore options and come to their own workable solution. This promotes positive relationships and encourages participation between you and your education authority. It is widely recognised that good communication between parents, schools and the education authority is the key to positive relationships and partnerships. It is much easier to resolve or avoid potential problems by talking through the issues as early as possible.

What do you need to do to take part in mediation?

You need to be able to openly discuss the issues concerning your child's education by bringing any information that you feel is important to the process. You must also be prepared to listen to the views of the other people involved. Remember you can bring a supporter or advocate with you to mediation.

What takes place in mediation?

During a mediation session the mediator will make sure that each person gets an opportunity to express his or her concerns and then listen to the other person's concerns. Past, current and future plans will be discussed, but the goal will be to reach agreement on the most appropriate and/or relevant plan or outcome for the child. Mediation aims to focus on the way forward. The mediator does not make the decision but just helps the parties to reach an agreement.

Where will mediation take place?

Usually the mediation service will identify a neutral venue. It is essential that it is accessible to all parties and that all the people who have decision-making responsibility about the dispute are available.

How do I know who is offering mediation in my area?

Education authorities and schools should have clear staged disagreement and resolution procedures in place, with named contact people at each stage. If your dispute is not being resolved you can ask about all aspects of resolving disagreements including mediation, and who provides mediation for additional support for learning in your area.

Education authorities and schools should advise you of these options when conflict arises.

The identified independent mediation provider in your area should be able to answer any queries and give you more detailed information.

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

- work with service providers and families to resolve disputes
- assist in communication and encourage mutual understanding
- assist the parties to arrive at 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 education authority.

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 the child's view to be heard where appropriate and relevant.

Mediation services may help families and authorities to build or rebuild a positive relationship and lead to co-operation in making arrangements for the child or young person. They may help avoid conflicts that arise out of misunderstandings, or lack of shared information, by assisting parents, teachers, authority officials and others involved to communicate directly with one another.

Further useful resources:

The parents' guide to additional support for learning, Enquire (2007)

Enquire Factsheet 5: Resolving disagreements (2008)

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

For general information about mediation contact Scottish Mediation Network, tel: 0131 556 1221

www.scottishmediation.org.uk

email: website@scottishmediation.org.uk

For further information contact:

Enquire, Children in Scotland, Princes House,
5 Shandwick Place, Edinburgh, EH2 4RG

Helpline: 0845 123 2303 Office: 0131 222 2425 Fax: 0131 228 9852
email: info@enquire.org.uk web: www.enquire.org.uk

Enquire factsheet 9 © Enquire September 2008