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# RESOLVE: ASL

Communication is the key

Mediation in education - a user's guide

# A child centred approach to resolving conflict in education

“ Without mediation we would still be floundering thank you! ”

The Education (Additional Support for Learning) Act 2004/09 places duties on local authorities to provide access to independent mediation for resolving disputes with parents and carers of children and young people with additional support needs when or if they arise. Your local authority also has a duty to publish who the independent provider of mediation is in your area.

## What are Additional Support Needs?

Additional support needs is the term which applies to children and young people who, for whatever reason, require additional support, long or short term, in order to help them make the most of their school education. (Ref: Scottish Government Supporting Children's Learning, Code of Practice - link).

## What is mediation?

- Mediation brings people together to work with each other to resolve a disagreement.
- An impartial mediator assists people to communicate their concerns to each other.
- All people are involved in the decision making.
- Everyone has an opportunity to express concerns and offer solutions.
- The views of the child or young person are taken into account.
- The focus is on solving the disagreement and working toward a solution that satisfies all people.
- The people involved have the power to make decisions.
- Mediation is voluntary. All people must agree to participate.
- Mediation is confidential to the people who take part in the mediation process.
- The focus of mediation is finding a solution that is in the best interests of the child or young person.

## Why consider mediation?

Sometimes, despite everyone's best efforts and endeavors, situations can arise which cause disagreements. Conflicts that arise out of misunderstandings or lack of shared information can be resolved through mediators helping parents, educators and service providers to communicate directly with one another. Mediation is faster than adversarial approaches and the people themselves make the decisions. The mediation process encourages and increases involvement and understanding amongst people in dispute.

Building trust and opening communication to improve the quality of relationships can successfully address many conflicts and disagreements. Mediation works best when the people involved actively want to find a solution to their disagreement.

Through mediation participants are much more likely to find satisfactory agreements and research shows that outcomes agreed in mediation are more likely to be upheld.

## Why would I use ASN mediation?

If you disagree with anything about your child's education you should raise your concerns with your child's teacher first. If you are not satisfied you can then speak to the head teacher or the education officer. If you are still unable to resolve the problem you should consider using mediation as soon as possible. Any disagreement about the education of children with additional support needs can be referred to the independent mediation service in your area.

The earlier you ask for mediation the better. The aim of mediation is to prevent disagreements from escalating.

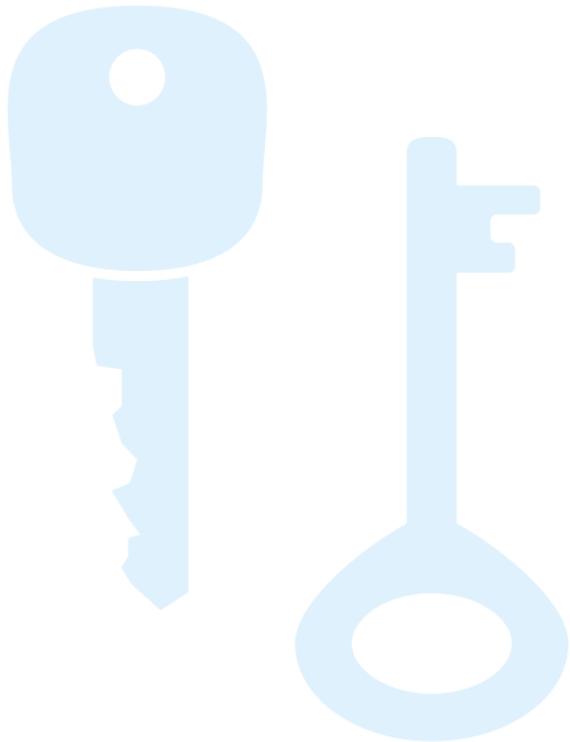
## What happens during mediation?

Mediation is a flexible and informal process. The joint mediation session will include all the relevant people involved in the dispute and the mediator. The mediator will first meet privately with you, and your child if they want or it is appropriate. This meeting often takes place at home. The mediator will also meet privately with relevant person/s at the education authority or school.

As the child or young person is the main focus of any mediation session whenever possible the child or young person's view must be taken into account in a way that suits them best.

During the first meeting you will have an opportunity to share your concerns, issues and future hopes with the mediator, ask questions, plan and decide on the key points that you want discussed in the joint session. The mediation service will then find a place to hold the joint meeting that is suitable for both parties - a neutral venue. A mediation session can last approximately 1-2 hours. During the joint meeting the mediator will make sure that each party gets an opportunity to talk, listen, express their concerns and explore the options that are available.

The mediator will summarise what has been said and then help everyone to move towards a solution that is manageable and sustainable. Whatever the outcome, a written account will be given to all involved after the joint meeting.



## How can I access mediation?

Contact the additional support for learning education officer in your local authority. If you do not know who this is you can phone Enquire on 0845 123 2303 to find out, or phone your council and ask to be put through to the relevant person. Education authorities in Scotland will have an Additional Support for Learning (ASL) Officer or Manager who will be able to give you the information regarding the independent mediation service provider in your area.

By law, local education authorities must provide mediation services free of charge for parents, carers and young people.

## What happens if we don't reach agreement?

Even if an agreement is not reached, there is the potential of people leaving mediation with an enhanced understanding of the issues. However, if you cannot reach an agreement using mediation, other options may be available to you.

There are ways to address your dispute using external adjudication, appeal committees or Additional Support Needs Tribunals. Which route you take will depend on the reason for your dispute. Contact Enquire to find out more about these options.

“ Clear boundaries established from outset meant everyone had a voice and a chance to be listened to.”

“What we say and what others hear is different, mediation helped with this.”

### Benefits of mediation:

- Opportunity for a full and respectful airing of differences.
- Opportunity to negotiate by all involved.
- Maintaining the focus on the needs of the child.
- The people can tailor their settlement to their particular situation.
- People who negotiate their own settlements have more control over the outcome of their dispute.
- People are generally more satisfied with solutions that have been mutually agreed upon, as opposed to solutions that are imposed by a third party decision-maker.
- Many disputes occur in the context of relationships that will continue over future years.
- A mediated settlement that addresses all peoples' interests can often preserve a good working relationship in ways that would not be possible in a win/lost decision-making procedure.

### Mediation is:

**Independent:** Local authorities must ensure that parents have access to an independent mediation service free of charge. Although the service you use is likely to be commissioned by the local authority, it will be operating entirely independently.

**Impartial:** Mediators are not on anyone's side.

**Private and confidential:** You can discuss the issues and your ideas for resolving the disagreement without fear of them being used against you in the future if no agreement is reached.

**A first option:** Using mediation will not affect your rights if you want to take the matter further later on.

**Easy to arrange:** Usually it will only take a few phone calls for meetings to be set up.



### A trained mediator:

- Facilitates open communication between the participants.
- Creates a safe environment , allowing people to interact and understand each other's point of view.
- Is unbiased and impartial.
- Clarifies points of agreement and disagreement.
- Helps identify options.
- Can produce a written statement of outcomes and agreements.
- Any agreements are decided by the people involved as a mediator does not make decisions or recommend solutions.

### Preparing for a mediation session:

- Think** of possible ways/alternatives of solving the problem/s
- Think** about what you want to get out of the session
- Think** about what you want the other people to do
- Think** about what you are willing to do
- Be willing** to listen and compromise
- Put aside** personality conflicts

“ I liked the idea of being in an environment that allowed us to speak freely and honestly and not be afraid to speak out. ”

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Scotland's independent  
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mediation and training service.

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