

Mediation

Information Summary Sheet



What is Mediation/ Disagreement Resolution?

Mediation aims to help resolve disagreements for children and young people that are being assessed for or have an Education, Health, & Care Plan.

Disagreement resolution is available for all children and young people with Special Educational Needs (SEN). It's not just for those who are being assessed for or have an Educational, Health, & Care Plan.

How Does it Work?

The mediation and disagreement resolution service is completely **neutral** and **independent** of the local authority, schools and other providers of special educational provision. It is a voluntary and confidential way to resolve disagreements in a safe, friendly environment. Its aim is to help **improve communication**, **rebuild trust**, and **find practical solutions**. Trained mediators remain neutral—they don't take sides or tell anyone what to do. Their role is to help everyone explore new ways to move forward. Parents and young people can choose whether to take part, and can stop at any time. **Choosing not to mediate does not affect your right to appeal to the First-Tier Tribunal (SEND)**. The Tribunal will not make any assumptions if you have not tried mediation.

Mediation Contact Information



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Mediation Timeline

Before the meeting, Global Mediation will speak to those involved, usually by phone, and explain what will happen and answer any questions or concerns you may have. We will arrange the meeting at a neutral venue within 30 days of your request on a date when all the main people can be there. You can bring a friend or supporter with you.

Global mediation will confirm everything in writing at least 5 days before the mediation.

When you arrive, the mediator will explain what will happen and check that you are happy with the arrangements. The mediator will make sure that everyone has a chance to give their views. The mediation then continues with joint discussions to look for a solution that everyone can agree to. The mediation is confidential.

At the end of the meeting, the mediator will help to draw up a written agreement. You can decide together who will be able to see it.

What's the Cost?



The mediation/ disagreement resolution service is **free** to young people with special educational needs and to the parents of children with special educational needs.

An Overview of Mediation

Mediation is for parents/ carers/ young people who are considering making an appeal to the First-Tier Tribunal (SEND). The law says that young people, parents or carers who want to appeal to the First-Tier Tribunal (SEND) must make contact a mediation adviser first. The mediation timeline as stated above will commence. It is then up to you if you would like to request a mediation meeting. Once you have had mediation advice or engaged in mediation, Global Mediation will issue a certificate so that you can lodge your appeal.

You do not have to have mediation advice if your appeal is only about placement, the health and social care elements of an EHC Plan or if it is a disability discrimination claim.

Mediation is also available if it's not been possible to resolve issues through the normal routes such as a school or college complaints process.



The Legal Background

As parents, carers & young people, you have the right to try mediation which is set out in **section 52 of the Children and Families Act 2014**. It requires all local authorities to provide independent mediation and disagreement resolution services to help when parents or young people cannot agree with the local authority or other providers about the SEN provision for a child or young person.

When You Can Mediate

The Children and Families Act (CFA) 2014 states your right to try mediation where a decision is made which you could appeal to the SEND Tribunal. Or it can be used where an EHC plan is made, amended or replaced.

The decisions made by your local authority which you can appeal are the decision to:

- 1. Not to carry out an EHC needs assessment**
- 2. Refusal to issue an EHC plan.**
- 3. When first made, amended or replaced, in relation to sections B, F and/or I of an EHC plan.**
- 4. Not to carry out a re-assessment of needs under section 44 CFA 2014 following a request to do so.**
- 5. Not to secure the amendment or replacement of an EHC plan following a review or re-assessment under section 44 CFA 2014.**
- 6. To cease to maintain (or stop) an EHC plan under section 45 CFA 2014.**

This means that you can mediate on and appeal a wide range of decisions, including in relation to placement (section I of an EHC plan) only.

What You Can Mediate

Where you have the right to mediation, you can mediate about the following matters: **education, health, and/ or social care.**

There does not need to be an educational element to the mediation in order to discuss health care or social care. In light of the above, if you want to appeal following mediation there will need to be an educational element to the matter. As well as ordering changes relating to **section B (needs), section F (provision)** and/or **section I (placement)**, the SEND Tribunal can recommend changes to:

Section C (health needs)

Section D (social care needs)

Section G (health provision)

Sections H1 and H2 (social care provision).

The SEND Tribunal can make these recommendations in all appeals with the exception of refusal to assess appeals.

Further information:

When: <https://www.ipsea.org.uk/when-you-can-mediate>

What: <https://www.ipsea.org.uk/what-you-can-mediate-about>

If Partial/ No Agreement is Reached

If there is some agreement reached but there are other matters which have not been resolved through mediation you still have the right to appeal. For example, if the LA agrees to provide some temporary funding to the school but does not agree to issue an EHC plan, you can still appeal that decision.

If no agreement has been reached in mediation, you can also still appeal the disputed decision.

For example, if the LA refuses to amend sections B and F of an EHC plan, you can appeal.

If you find yourself in the situations listed above, you can use the mediation certificate received at the end of the process to lodge your appeal in the SEND Tribunal.

In all appeal situations, **you must make sure your appeal is submitted within two months of the original decision letter or one month of the mediation certificate**, whichever is the later. If your appeal relates only to section I (placement) you do not need a certificate and you won't receive one so your appeal will need to be submitted within two months of the original decision letter.

If you want to appeal following mediation there will need to be an educational element to the matter. As well as ordering changes relating to section B (needs), section F (provision) and/or section I (placement), the SEND Tribunal can recommend changes to:

section C (health needs)

section D (social care needs)

section G (health provision), and

sections H1 and H2 (social care provision)



If the LA sends you an amended EHC plan reflecting partial agreement reached at mediation after you have submitted your appeal, the SEND Tribunal is generally happy for this EHC plan to be treated as a **working document** in the appeal.

Frequently Asked Questions

I have heard of way forward meetings and next steps meetings. Are these the same as mediation?

No - mediation is a statutory process. Those meetings are what some LAs give to informal dispute resolution.

I am unhappy with the school named in Section I of my child's EHC plan. Is mediation available for this?

Yes - you have the right to mediation when your LA makes a decision you can appeal in the SEND Tribunal, or when an EHC plan is made, amended or replaced.

My Local Authority was not able to arrange for mediation within 30 days of me asking for it. Can I still mediate if it is late?

Yes - You don't lose your right to mediation if the LA is late. They must notify the mediator who will send a 'deemed mediation' certificate within 3 days, allowing you to lodge your appeal

Key Points

- You legally have the right to try mediation
- Mediating can give you more time to appeal - It is important to bare in mind that asking for mediation will delay the appeal for a maximum of 30 days.
- You may want to consider that it can take a year for an appeal to the SEND Tribunal to be heard.
- Mediation has the potential to resolve all or some of the issues that are in dispute much more quickly. This means that it is possible to achieve some improvements to an EHC plan well in advance of the outcome of the appeal.
- If an annual review is due at the same time you are mediating or appealing a decision, the annual review must also still happen.