



Parent Partnership Service

Disagreement Resolution

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From January 2002 Local Education Authorities (LAs) must make arrangement for avoiding or resolving disagreements about special educational needs (SEN) that parents have with the LA or with schools. To help prevent difficulties developing into disagreements, parents, schools and LAs should attempt to resolve issues as soon as they become apparent by working together. Problems can be solved at a number of levels from school-based resolution, where the issue is resolved by the parent and school working together, to an SEN and Disability Tribunal when parents disagree with the decisions made by the LA about a child's SEN. In order to illustrate the range of options open to parents this leaflet examines some of the most frequently asked questions concerning disagreement resolution.

My son has SEN; I don't think that his school is providing the help he needs.

The first thing that you can do is arrange to speak to your son's teacher.

S/he will be able to discuss the progress that he is making and explain what steps are being taken to provide him with the help that he needs. If, after this meeting, you still have concerns about the provision for your son, you could request a more formal meeting with the school's Special Educational Needs Co-ordinator (SENCO) and, if appropriate, the Headteacher.

I have had several meetings with the school about my daughter's SEN. They say that they are making adequate provision and that she has made progress this year. I want what is best for my daughter but I don't feel that the school is really listening.

The Parent Partnership Service (PPS) can give you information on a range of SEN issues and on how to communicate with the school. If you wish, someone from the PPS can go through all the possible options with you including:

- The school's informal process for resolving disputes
- School complaints procedures
- Informal mediation
- Disagreement resolution

What is the purpose of mediation?

Mediation enables people to meet on an equal footing and with a more open mind. The aim is to empower the parties involved in the disagreement to find a resolution that is acceptable to both sides.

It is not about winning or losing but finding a way forward.

Will the mediation process give me the opportunity to express my concerns about my child's SEN provision?

Yes. The mediation process will allow both you and the school to express your concerns as fully as you can. All the parties involved will have the opportunity to give their view and state their preferred solutions.

How can I be sure that the mediation process is fair and impartial?

The person facilitating the mediation (the facilitator) should be impartial and neutral; s/he should not be acting on behalf of any of the parties involved in the disagreement. Both parties will be given details about the proposed facilitator beforehand and they will have the opportunity to object to the person suggested if they do not believe that that person will be impartial.

What role does the facilitator play in the mediation process?

The facilitator has responsibility for the process of disagreement resolution, s/he does not decide on the content of the meeting, suggest solutions or provide guidance towards agreement. The facilitator enables the parties to explore the issues in depth and check that the solutions suggested are acceptable to all parties.

The facilitator can also help the parties draft the agreements that they have agreed to abide by, and any feedback to be sent to the LA.

Will the facilitator have the authority to impose a solution?

No, the role of the facilitator is to manage the mediation process and help the parties find their own solution to the disagreement.

If we agree on a solution that is acceptable, how can I be sure that the other parties will keep to the agreement that has been made?

At the beginning of the mediation process the facilitator will check that all the parties present at the mediation have the power to authorise any changes that are agreed upon. The facilitator will also make sure that those present will be responsible for checking that what has been agreed is being put into practice. All parties will be required to sign any agreement that is reached; the agreements will then become binding.

Is the mediation process confidential?

The disagreement resolution discussions are confidential and the facilitator will destroy any notes that s/he makes during the course of the meeting. Anything that is said cannot be disclosed unless all parties agree and any information disclosed during separate meetings cannot be shared with the other party without specific agreement from the party making the disclosure.

There will, however, need to be some boundaries such as the disclosure of issues relating to child protection or criminal activity and provision of any feedback to the LA. If a binding agreement is made, it becomes a public document and can be used in any later proceedings. The facilitator will make these boundaries clear at the beginning of the process and will check that all parties understand and agree to the boundaries set.

I am considering my right to lodge an appeal to the SEN & Disability Tribunal (SENDIST). Will I lose this right by entering the mediation process?

No, at no time will you lose the right to appeal. Ideally mediation should take place within the two-month statutory time limit for an appeal to the SENDIST but it can also take place before or after an appeal has been lodged.

Even where the parties have not been able to reach agreed solutions, mediation could still be beneficial. What has taken place during the process can help provide a clearer understanding of the issues and an improvement in communication between the parties. This can, in turn, provide a basis for more open channels of communication in the future.

Do I have to enter the mediation process?

No. Mediation is entirely voluntary and, if you opt for mediation, you can leave at any time. Effective mediation can only take place where all parties are willing to freely participate in the process and you will not be put under any pressure to accept mediation. It is important that both parties attend because they want to resolve the issue, both parties must also be prepared to be flexible and accept that they have been part of the problem and will be part of the solution.

I would like to consider entering the mediation process but I am not sure that I am ready for a joint meeting. Does this mean that mediation is not an option in my case?

If you feel unable to attend a joint meeting, the person facilitating the mediation can arrange separate meetings with you and the other party. Issues and possible solutions can still be explored but communication between the parties takes place via the facilitator.

Can I ask someone to accompany me to the meeting?

Yes, all parties can take a supporter of their choice to the meeting. The only restriction is that the supporter cannot be the party's legal representative because legal representation is specifically excluded from the process of informal disagreement resolution.

I would like to take a supporter to the disagreement resolution meeting but I don't know anyone who would be suitable.

If you would like one, the Parent Partnership Service can put you in touch with a Befriender, a trained volunteer with experience in SEN issues. The Befriender can assist you with any documentation and accompany you to meetings. The role of the Befriender is not to speak for you at meetings but s/he can help clarify issues and provide moral support.

What do I have to gain from the disagreement resolution process?

Mediation can achieve **practical solutions** to long-standing problems. The disagreement resolution process provides all the parties with the opportunity to talk and to listen to each other. Because the process is confidential and all parties can freely express their concerns, feelings and desired outcomes, the solutions agreed tend to be more creative than those suggested through other processes. The resolutions reached are also more likely to be successful than resolutions imposed upon the parties by others because they have been identified and agreed by the parties involved.

What other options are available if mediation is not successful or appropriate?

The Special Educational Needs and Disability Tribunal is an independent body that hears parents' appeals against LA decisions on statutory assessments & statements.

You can appeal to the Special Educational Needs Tribunal if:

- The LA refuse to carry out a statutory assessment of your child after you have asked them to
- The LA refuse to make a statement for your child after an assessment
- You disagree with part 2, part 3 or part 4 of your child's statement, when that statement is first made or if it is changed later
- Your child already has a statement, and the LA refuse to assess your child again or to change the name of the school in that statement
- The LA decide to stop your child's statement.

You have to apply to the Tribunal no later than two months after the LA tell you their decision. It is only possible to get the time limit extended in a very few cases.

You cannot appeal:

- If the LA refuse to name an independent or non-maintained school when you asked for a change in a statement (if the statement is at least a year old)
- About the way the LA carried out the assessment, or the length of time it took
- About how the LA is arranging to provide the help set out in the statement
- About the way the school is meeting your child's needs
- The description in parts 5 and 6 of the statement (non-educational needs & provision)
- If the LA will not change the statement after an annual review.

A booklet *How to Appeal* and video *Right to be Heard*, produced by the Tribunal, contain useful guidance for parents/carers about the procedures that will be used.

If SENDIST cannot deal with your complaint you may be able to make a complaint to the Local Government Ombudsman.

For further information about special educational needs:

Parent Partnership Service

Children's Services, PO Box 73, Worcester, WR5 2YA

Tel: 01905 727940 Fax: 01905 727949

Email: ppservice@worcestershires.gov.uk

www.ppsworcs.co.uk

SEN Services

Children's Services, PO Box 73, Worcester, WR5 2YA

Tel: 01905 766329

Special Educational Needs Code of Practice

Ref: DFES 0583/2002

Copies obtained from DCSF Publications

Department for Children, Schools and Families

Sanctuary Buildings, Great Smith Street, London SW1P 3BJ

Tel: 0870 000 2288

Email: info@dcsf.gsi.gov.uk

www.dcsf.gov.uk

The Advisory Centre for Education (ACE)

Unit 1c, Aberdeen Studios, 22 Highbury Grove, London, N5 2DQ

Helpline: 0808 8005793

Exclusions Advice: 020 7704 9822

www.ace-ed.org.uk

SENDIST

Ground Floor, Mowden Hall, Staindrop Road, Darlington, DL3 9BG

SEN helpline: 0870 241 2555

Commissioner for Local Administration in England

(Local Government Ombudsman)

The Oaks No 2, Westwood Way, Westwood Business Park, Coventry, CV4 8JB

Tel: 024 7682 0000

Advice Line: 0845 602 1983

www.lgo.org.uk

Children's Legal Centre

Advice Line: 0845 456 6811

Helpline: 024 7682 0000

www.childrenslegalcentre.com

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