



Mediation is an informal way of settling a disagreement with the Local Authority (LA) or Clinical Commissioning Group (CCG). Mediation is a voluntary process for parents & young people, which you can use if you cannot reach an agreement with your LA or CCG in matters relating to Education, Health & Care (EHC) plans.

Every LA **must** commission an independent mediation service that is available to parents & young people. If you are thinking about appealing about an EHC plan, you **must** first consider mediation by contacting one of the Mediator services the LA contract, to discuss whether mediation might be a suitable way of resolving the disagreement.

If you after discussions with a mediator, you decide it is not for you, they will issue you a certificate, which enables you to appeal to SENDIST tribunal. (see page 3)

Mediation is specifically for decisions related to Education Health Care needs assessments and plans. Mediation only covers disagreements where your LA decides:

- not to carry out an EHC needs assessment or a re-assessment
- not to issue an EHC Plan once they have done an assessment
- the contents of the EHC Plan (sections B, & F)
- After an Annual Review or reassessment - not amending your child's EHC Plan or ceasing to maintain your child's EHC Plan.

You can also go to mediation about the health & social care elements of an EHC plan

Mediation sessions usually last about **3 hours**, are run by a trained & accredited Mediator & should take place at a time & place which is convenient to you

Mediation is informal & try's to resolve disagreement. There are various reasons why it could work for you, for example where...

- You would like an opportunity to properly discuss your issues & find out more about how the LA or health commissioner reached their decision.
- You have some additional information or a new report you would like to share with the LA/CCG.
- You believe the LA/CCG missed some information provided during assessment or annual review
- You believe further assessment is required to determine needs.



When you contact the mediator (who will have some knowledge of SEND law), they should:

- clarify your issues & the nature of the disagreement
- agree with you who needs to be there
- discuss with you when & where the meeting could take place
- Arrange the meeting & send invites, giving at least 5 working days' notice.

- The LA **MUST** take part & ensure this happens **within 30 days** of the request.
- The LA representative **MUST** be at a level that can make decisions during the meeting.
- The CCG **MUST** attend if there are issues with health content of the EHC plan.

At the meeting, the mediator will:

- Confirm their role as the mediator & Introduce all parties attending
- Read through an agreement, ensure all parties sign & then open the meeting
- Provide an overview of the issues to be discussed
- Ensure everyone understands what is said, has chance to discuss & ask questions
- Keep the conversation focus on the outcomes for the child
- Ensure agreed actions are SMART & issue a Mediation certificate

Signed agreements are photocopied & agreed actions are sent to all parties attending.

Where agreement is reached at mediation, the LA **must** comply with these legal timescales:

- To carry out an EHC needs assessment: they **must** notify you within 2 weeks
- To issue an EHC plan: they **must** issue the draft plan within 5 weeks & the final EHC plan within 11 weeks
- To amend an EHC plan: they **must** issue the amended EHC Plan within 5 weeks
- To change the name of a school in an EHC plan: they **must** issue the amended EHC Plan within 2 weeks

If following mediation you have not been able to resolve your disagreement, you can appeal to the SEND Tribunal. You **must** do this within

- **2 months** of the original decision or
- **1 month** from the mediation certificate whichever is the later

**Mediation is without prejudice so anything agreed apart from overturning decision, cannot be used in furthering your appeal to tribunal*.*



If after you have spoken to a mediator, you decide it is not for you, they will issue you with a certificate so that you can lodge an appeal to SENDIST tribunal. You **must** lodge your appeal either within

- **2 months** of the original decision letter from the LA, or
- **1 month** from the date of mediation certificate, whichever is the latter.

MEDIATION TOP TIPS

Before the mediation meeting:

- ✓ Talk to SENDIAS
- ✓ Think about any questions you have around why the LA reached its decision.
- ✓ Highlight sections of the EHC plan & any reports to help you evidence your points.
- ✓ Get your child's views; if you do not have them, Walsall SENDIAS can help.
- ✓ Gather any new information about your child that you can share with the LA. Look at what LA were not aware of – if anything – is it relevant?
- ✓ Prepare a bullet point list of your issues & concerns, so you can easily reference them during the meeting.
- ✓ Remember what you are appealing against and prepare an opening piece (not an essay) about why you are appealing
- ✓ Ask the mediator to check that the LA representative has the authority to make decisions.
- ✓ This is your appeal hearing, the 'MEDIATION' is between you & the LA &/or CCG, you can tell the mediator who you want to attend, & object to parties attending if they do not support you or have not been involved.





At the meeting:

- ✓ Bring a drink – you may be talking quite a bit & the venue may not have refreshments available
- ✓ Bring a photo of your child, this helps to make them a real person rather than a piece of paper. Remember that the LA will have only seen pieces of paper about your child
- ✓ Have your child's views separate – their views & feelings are important & should be central
- ✓ Bring some tissues – this can be a very emotional process as its focus is on what your child finds difficult.
- ✓ Approach mediation with an open mind – sometimes agreements made may not have been what you wanted but may be more appropriate and achieve the support or even more support for you child.
- ✓ As it is voluntary you can leave at any time
- ✓ Remember the mediation process is without prejudice so cannot be used as evidence for tribunal
- ✓ Work with your SENDIAS caseworker, they know the law; they can offer advice & support in preparation, they can prompt & advise on agreements in the meeting.



We are here to help:

We offer free information, advice & support regarding mediation & SEND tribunal.

We can:

- ✓ Discuss your options with you,
- ✓ Help you prepare for mediation,
- ✓ Attend mediation with you
- ✓ Help you understand the mediation agreements.



Call us on **0808 802 6666** or Email walsallsendias@family-action.org.uk

We also have lots of information on our website: www.walsall-sendias.org.uk

Other sources of free information can be found at IPSEA. www.ipsea.org.uk