

Script for Video: Why Choose Mediation?

Title slide

This short video aims to help parents and carers who may be thinking about appealing to the special educational needs and disability (or SEND) Tribunal about a decision the local authority has made about their child's Education, Health and Care plan or about an Education, Health and Care needs assessment.

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The Children and Families Act of 2014 says you must consider mediation if you want to appeal against one of the following EHC decisions:

refusal to carry out an EHC needs assessment;

refusal to issue an EHC plan;

the contents of a final or amended and newly finalised EHC plan

the decision not to amend an EHC plan

or the decision to cease to maintain an EHC plan.

The Tribunal would like everyone to have the opportunity to find out about mediation and decide whether a mediation meeting would help you.

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So, the first step is to contact your local SEND mediation service to discuss whether you would like a meeting or not.

If you want a meeting, they will talk you through next steps and this video will explain what to expect.

But if you decide you **don't** want a meeting, they will send you a mediation certificate which you can attach to your appeal form to the SEND Tribunal.

Parents who contact our SENDIAS service are often unsure what mediation involves.



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So, this recording will explore:

What mediation is;

why some families choose to go to a mediation meeting;

what happens before and at the meeting and how to prepare;

and what happens afterwards to help you decide whether you would like a mediation meeting or not.

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Mediation is an informal way of settling disagreement with the local authority and/or the health commissioner.

It is completely free.

In Suffolk the mediation service is provided by Anglia Care Trust and their contact details are here, but every county will have their own service.

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So why might a mediation meeting help you?

You may want the chance to properly talk about your concerns and the issues around the EHC decision;

Or you may want to find out more about how the local authority or health commissioner reached their decision;


Perhaps you have some extra information or a new report which you want to share with the local authority. Or perhaps things have become much more difficult for your child in recent weeks and you would like the chance to explain;

Or maybe you feel that information has been missed that was provided, at for example, an EHC needs assessment or maybe at annual review or maybe you feel that further assessment is needed to make your child's needs clear.

Any travel expense or other expenses incurred may be refundable.

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Remember though, going to a mediation meeting is **voluntary** and you shouldn't feel pressured into going.



If you have already had a lot of informal discussions or meetings with your LA, you may feel a mediation meeting will not be so helpful and you may want to ask for your mediation certificate, in order to continue to process your appeal.

To help you decide, we're going to explain what you can expect to happen at a mediation meeting.

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Firstly, there will be a trained independent mediator who will try to help you all reach agreement.

The mediator is impartial – that means they do not take sides or judge or give advice. Their role is to manage the confidential process fairly and to help all parties to communicate and explore the options to come to a resolution.

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There will be a representative from the local authority (or LA) who will come prepared to share the LA's viewpoint. And this person should be someone who has the authority to make decisions.

Depending on the nature of your appeal there may also be a representative from the health commissioning body.

Parents or a young person may like to bring a friend or adviser or advocate. Young people with SEND may need an advocate to help them participate and in Suffolk, you can contact Total Voice Suffolk to explore this and here are their details.

There may also be other relevant people such as representatives from your child's school or college or other practitioners, who you or the LA might invite.

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Before a mediation meeting the service will agree:

Who needs to be there;

they will clarify any issues and the nature of the disagreement;

And they will try to obtain the views of your child or young person.

The meeting is often held at the mediation service premises but let them know if this would be difficult for you, as the SEND Code of Practice says that the time and place of a mediation meeting should be convenient for all parties.



Meetings often take about an hour and they must be arranged within 30 days of your request for a mediation meeting.

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Before a meeting we would recommend that you make a bullet point list of the issues, to refer to in the meeting.

It's common to feel a bit emotional when you are talking about issues which are important to your child and having a list with you can help you keep focussed and feel calmer and more in control.

Do write down any questions you want to ask the LA as to why they reached their decision.

And highlight sections of any reports you may choose to bring with you, to help you evidence your points, to make it easier to find the relevant sections in the meeting.

Do gather any new information about your child which you want to share at the meeting. You may like to send this new information to the LA or to the health commissioner representative before the meeting to allow all parties time to read it.

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You may find the following leaflets helpful in preparing for the meeting. They can be found on the leaflets and resources webpage of our SENDIASS website in Suffolk.

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At a mediation meeting, the mediator will:

introduce everyone;


read through an agreement and check everyone is happy to sign it and go ahead with the meeting. This agreement will be about listening to each other, not talking over each other and being considerate of each other.

the mediator will explain the role of the mediator to everyone.

and give an overview of the issues to be discussed as they have been presented by the local authority and by the family

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The mediator:



will make sure that everyone listens to each other, understands what is said and has the chance to share their issues and ask questions;

may take notes in the meeting and will summarise any agreed actions and make sure everyone is happy to sign an agreement, if an agreement is reached;

will ensure each party has a copy of the signed agreement;

and will issue a mediation certificate.

The mediator will also try and keep the meeting feel relaxed and informal.

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If you reach agreement, the local authority must comply with these 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 within 5 weeks and the finalised EHC plan within 11 weeks.

To change the name of the school or other setting, they must issue the amended EHC plan within 2 weeks.

Or to amend the EHC plan they must issue the amended plan within 5 weeks.

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If you don't reach agreement, you can appeal to the SEND Tribunal either:

Within 2 months of the date on the decision letter you received from the LA which gives you the right to appeal

Or

Within one month from the mediation certificate, whichever is later.

The tribunal will not take into account if mediation did or did not go ahead, nor will the outcomes or actions agreed at mediation be shared or considered.

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We have further information about appeals to the tribunal on our SENDIASS website in Suffolk and on our YouTube channel, including videos to help you fill in the appeal form.



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This recording was made by Suffolk SENDIASS but every county has an impartial, confidential Information Advice and Support service.