



Mediation

Mediation is an informal way of settling disagreement with the local authority and in Durham this is provided by Chapel Mediation.

If you are thinking about appealing these local authority decisions...

- refusal to carry out an EHC needs assessment.
- refusal to issue an EHC plan.
- the contents of a final EHC plan or amended plan.
- decision not to amend an EHC plan.
- decision to cease to maintain an EHC plan.

...you must firstly consider mediation by contacting Chapel Mediation.

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If you decide it's not for you, they will issue you a certificate which enables you to appeal to the SEND Tribunal Service.

You have two months from the decision letter or issue of the final EHC plan to decide to go to mediation and/or appeal.

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

Why choose mediation?

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

There are various reasons why it could work for you, for example where...

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

However, this is a voluntary process, and you should not feel pressured into mediation.

Requesting Mediation or a mediation certificate

The first step would be to contact Chapel Mediation to discuss whether you would like to use mediation and if you decide to, they will talk you through next steps.

If you decide it's not for you, they will issue you with a certificate so that you can lodge an appeal, either within two months of the original decision letter from the local authority, or one month from the date of mediation or discussion, whichever is the later.

When a young person or parent chooses mediation, the local authority (or commissioning body) must take part and ensure this happens **within 30 days** of the request.

Before the mediation meeting:

Chapel Mediation will make arrangements for you to meet with the local authority (and/or health commissioner) at a time and place convenient to all parties.

The mediator (who will have some knowledge of SEND legislation) should:

- agree who needs to be there.
- clarify your issues and the nature of the disagreement.
- try to obtain the views of your child.

Local authority and health commissioner representatives should be at a level where they are able to make decisions during the mediation meeting. (11.38, SEND Code of Practice 2015)

Ahead of the mediation meeting it would be helpful to:

- prepare a bullet point list of your issues and concerns, so you can easily reference.
- think about any questions you have around why the local authority reached its decision or is refusing your proposed changes.
- highlight sections of reports to help you evidence your points.
- gather any new information about your child that you would like to share with the local authority or health commissioner representative. (You may want to send this in advance to allow the opportunity for all parties to read)

At the meeting, the mediator will:

- Introduce all parties attending.
- Read through an agreement and ensure all parties wish to sign and move forward with the meeting.
- Confirm the role of the mediator.
- Provide an overview of the issues to be discussed as presented.
- Ensure all parties understand what is said and have an opportunity to discuss and ask questions.
- Confirm agreed actions and issue a Mediation certificate.

After the meeting:

If following mediation, you have not been able to resolve your disagreement, you can appeal to the SEND Tribunal (within two months of the original decision or one month from the mediation certificate whichever is the later).

Where agreement was reached at mediation the local authority 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 and the finalised EHC plan within 11 weeks.

- To change the name of a school in an EHC plan: they must issue the amended EHC Plan within 2 weeks.
- To amend an EHC plan: they must issue the amended EHC Plan within 5 weeks.

SENDIASS helpline number: 01915873541

Email: sendiass@durham.gov.uk

Disclaimer: Durham SENDIASS has made all reasonable efforts to ensure that the information contained in this leaflet is accurate and up to date at the time of publication. It does not constitute legal advice and Durham SENDIASS cannot accept any responsibility for any loss or damage suffered as a consequence of any reliance placed upon it.

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