

Professional Standards for Mediators Working With Special Educational Needs & Disability (SEND)

This document outlines the professional practice standards for SEND mediators which have been developed with a variety of mediation providers and trainers, approved by the Civil Mediation Council (CMC) and the College of Mediators (COM), and supported by the Department for Education.

The CMC and the COM are both independent standard setting bodies and offer membership to professional mediators working in a number of different contexts.

Separate information and guidance is available for parents or young people who wish to consider using mediation to resolve their issues. (See 'Information about SEND Mediation for Parents and Young People')

These standards cover the following:

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Definitions

Mediation is a process that offers parties in dispute an opportunity to discuss and explore their differences and reach an agreement, with the help of a trained, independent and impartial mediator. It offers a confidential, blame-free environment in which participants can contribute equally in finding a mutually acceptable solution.

In the context of SEND mediation provides a direct alternative to the formal process of a tribunal and parties to the dispute are required to consider mediation before taking out an appeal.

Disagreement Resolution Services is a similar process that provides a forum to address disagreements about any aspect of SEN provision, at any time. Disagreement Resolution is undertaken voluntarily by all those involved and has no direct link to a tribunal.

SEND Mediator refers to a trained mediator working in the SEND context who facilitates a constructive dialogue between the parties concerned and supports them to reach an agreement.

Mediation Provider Organisation refers to organisations providing mediation services, including Disagreement Resolution, to parties and referrers.

Sole Mediation Provider refers to individuals providing mediation services, including Disagreement Resolution, to parties and referrers.

Training Provider refers to those who deliver SEND mediation training, whether as a sole provider or as a mediation organisation, and whose training is approved by the CMC or the COM.

Professional Practice Consultant (PPC) refers to experienced mediators trained to offer mentoring support and/or supervision.

Acknowledgements

These standards have been drawn up as a result of a collaborative working group of mediation and training providers supplying mediation in the SEND field. Grateful thanks go to the following organisations for their experience and their invaluable contributions:



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The CMC and COM are also grateful for the support and involvement of the Department for Education.

1. Standards for Mediators

Mediators who choose to be accredited to work in the context of SEND disputes must demonstrate that they have received the appropriate training, have gained a level of experience after training and have had their work assessed by an experienced SEND mediator as meeting the required standards (detailed in Appendix A). In order to maintain their accreditation, mediators must then demonstrate that they keep up their practice annually, undergo professional development, reflect on their work and are a member of a professional body. These requirements are described more fully below.

1.1 Training

In order to practice in the SEND context mediators will have previously attended a foundation course in mediation. Mediators should be able to demonstrate that the foundation programme was to a certain standard. This could be in a variety of ways: the training provider may be approved by a mediation standard setting body such as the Civil Mediation Council or the College of Mediators; or the programme may have been verified by a national organisation which awards vocational training qualifications such as the Open College Network or the Institute of Leadership and Management. In any case mediators should be able to evidence that the course met the following criteria:

- 40 hours in length
- Covers the process and principles of mediation
- Develops skills through role play
- Contains a level of assessment through role play and written assignment

Following initial training and a period of practice, mediators will attend a SEND specific training programme which provides the relevant contextual knowledge and elements of practice in this field. The training should consist of a minimum of 12 hours' delivery and should be delivered by a recognised provider of the College of Mediators or the Civil Mediation Council. The taught programme is to be followed by a period of professional practice training, after which a certificate will be issued. (See Appendix A, Forms 4 and 5)

1.2 Professional Practice

After having attended a specialised training programme, mediators will be required to engage in a period of supported practice in order to reach accreditation. This should consist of:

- at least 12 hours of casework
- a further 2 hours of reflection on their practice

There is an expectation that newly trained mediators will have opportunities to observe a SEND mediation case, before progressing to co-working and finally taking a lead in a case.

Where a mediator has been recruited, and trained, by a Mediation Provider Organisation this professional practice period will take place internally. Where an individual has taken training from an external training provider they will need to find opportunities to access practice.

Once a mediator has been able to observe and begins to work actively in cases there will be a continuous element of assessment and observation from co-workers and experienced mediators.

During this time the mediator will demonstrate, over a minimum of three cases that they have met the required standards and can apply the knowledge and learning from the taught programme. There should be opportunities for de-briefing after each case. Skills and areas for development can be recorded on the observation forms provided. These will contribute to an overall checklist of criteria to be demonstrated over the practice period (Appendix A: Guidance for Accrediting Mediators).

1.3 Accreditation

For mediators working within a Mediation Provider Organisation this period of practice will culminate in a final case, observed by an experienced mediator who has the authority to verify that they have reached a sufficient standard of practice to be accredited using the criteria outlined in Appendix A. This may be an external Professional Practice Consultant (PPC) listed on the College of Mediators' register of PPCs, or an internal member of staff working for a Mediation Provider Organisation with the relevant experience.

Sole Mediation Providers will be required to submit a written portfolio of their work to be externally examined by members of the assessor panel made up of members of the CMC and the COM. Similarly, this will be with the verification of their PPC.

Normally, after a period of observation, a mediator will actively participate in three cases, taking a lead on the final case, in order to reach accreditation. This is, however, at the discretion of the assessor, the provider and the mediator.

Once a mediator reaches accreditation and this is verified by a Professional Practice Consultant or an experienced internal mediator, they are able to register with the CMC or the COM, either through the Mediation Provider Organisation or as a Sole Provider.

Existing SEND mediators who are in current practice and meet the criteria outlined in paragraph 1.6 (below) may be passported through these procedures.

1.4 Membership of a Professional Body

1.4.1. In order to be registered as an accredited SEND mediator the practitioner will be a member of either the Civil Mediation Council or the College of Mediators. These bodies will maintain a joint register of accredited SEND mediators that is accessible to the public. A mediator may already be a member of one of these bodies for other mediation work they may perform, or they may join as a SEND mediator.

1.4.2. Membership will be via one of two routes:

- i. Individual membership: individuals apply and must be able to show that they meet the necessary standards and requirements in terms of training, practice, CPD, mentoring and reflection on practice. Individual applications are verified by a PPC.
- ii. Membership of a Panel: a Mediation Provider Organisation will apply to form a panel and undertake to ensure that all their panel members meet the necessary standards and requirements in terms of training, practice, CPD, mentoring / supervision. Panel applications will be subject to spot checks to verify these requirements are met.

1.4.3. In order to maintain membership of a professional body mediators will be required to re-register on an annual basis. Mediators should therefore:

- maintain a CPD log, providing evidence of a minimum of 20 hours completed CPD activity
- verify that they have completed at least three mediation cases.
- verify that they have accessed mentoring support / supervision

CPD should be completed through a variety of methods such as role play, reading, training, leading team discussion, attending conferences.

A flow chart outlining the process from training to accreditation can be seen at Appendix C.

1.5 Continuing Professional Development (CPD)

CPD is an important element to ensure ongoing monitoring and learning. In order to maintain accreditation mediators must demonstrate that they maintain a certain level of CPD to include:

1.5.1 Additional days of learning or refresher training These will be on specific topic areas to complement and build on what was learnt in the SEND specific training course.

1.5.2 Continuous monitoring and reflection on practice through:

- Peer moderation and observations
- Feedback from users
- Access to an experienced SEND mediator or a registered PPC.

1.6 Passporting Arrangements for Existing SEND Mediators

Passporting arrangements may allow existing SEND mediators to continue to mediate without the need for further accreditation. These transitional arrangements recognise SEND mediators that are practicing at the required standard and offers them exemption from the new requirements. An experienced mediator, PPC or manager of the relevant Mediation Provider Organisation must provide a declaration of competence to confirm that the mediator is trained to the required level and is competent and experienced in their role. Mediators who are to be passported must satisfy the exemption criteria set out below.

(A) Existing mediators who have already completed, or are currently undergoing SEND Training

Mediators who are on the panel of a SEND Mediation Provider Organisation when these Quality Standards are implemented and have satisfied the provider that they meet the standards, may be offered an exemption. Mediation Provider Organisation will be asked to confirm that individual mediators form part of their panel.

(B) Existing mediators who have a long history of relevant work experience

There are a small number of mediators who formed part of the movement to introduce mediation in the UK in the 1980's and have been delivering SEND mediation for many years. They helped to develop both mediation practice and accredited training, though, as pioneers, may not have undertaken training themselves. These mediators will be able to evidence consistent ongoing

mediation experience and CPD leading up to implementation of the new mediation standards. Discretion may be exercised in circumstances where passporting is appropriate.

2 Standards for Training Providers

2.1 Training providers wishing to deliver courses that will enable mediators to become SEND accredited must be approved by the COM or the CMC, through the assessor panel, whether as a Mediation Provider Organisation or as a sole training provider

2.2 In order to gain approval training providers must demonstrate that:

- They have systems in place to provide high quality training including aims and learning objectives, an identifiable programme, a range of training techniques and methods of evaluation and review.
- The taught programme of 12 hours covers the necessary material under four main headings:
 - Legislative framework
 - Contextual knowledge of SEND
 - Mediation principles, practice and the conduct of cases
 - Local processes and procedures

Further detail on content can be found in Appendix B: Content of Training Programmes

2.3 Training providers should bear in mind that delegates must complete a further 14 hours of professional practice and reflection before reaching accreditation. Where training is undertaken by the Mediation Provider Organisation it is expected that this will be provided internally. Where training is delivered by a provider whose primary role is mediation training (rather than the provision of mediation) they should provide the necessary information and guidance to trainees concerning the need to fulfil these practice requirements. Nevertheless, it remains the responsibility of the trainee to make their own practice arrangements and to bear any risk should this be difficult to find.

3 Guidance for Mediation Provider Organisations

3.1. While provider organisations will not be audited by the CMC or the COM regarding their organisational processes and values, the principles set out in Appendix D outline the criteria that mediation organisations are expected to meet in order to provide service of a high quality. The four fundamental aspects of service provision listed below will be of significance to service users and commissioning bodies.

- Governance
- Evaluation and Development
- Access and Support for Service Users
- The Conduct of Mediation

These principles apply to the provision of both Disagreement Resolution Services and Mediation Services as described in the SEND Code of Practice 2015.

4. Appendices

Appendix A: Guidance for Accrediting SEND Mediators

The forms in this document are intended to be used to support the process of accrediting an SEND mediator. They cover all the necessary requirements to meet the standards (below) laid down by the College of Mediators and the Civil Mediation Council and should be read in conjunction with these standards. They provide a checklist of the skills and knowledge required to be a competent SEND mediator and which need to be demonstrated throughout the practice component of SEND mediation training.

When using these forms, it is helpful to bear in mind the following:

- It is expected that skills and knowledge are acquired over time by mediating in a number of cases and working with different mediators. It may well be that not all the criteria are met within each case, but they should be demonstrated over the whole period. The forms can be used to record skills that are observed and to identify gaps in practice and learning needs. Together, they provide an evidence base.
- They are intended to be used flexibly bearing in mind variations in practice e.g. different providers involve mediators in the preparation and set up of a mediation case to varying degrees. The forms can be adapted to reflect these variations though key mediation skills and contextual knowledge components should remain.
- Practitioners undergoing accreditation will usually be experienced mediators. The main purpose of this process is to assess: knowledge of the SEND context and an ability to apply it; familiarity with service procedures and the model used; advanced mediation skills, particularly working with groups and balancing a wide range of needs and interests.

There are five forms in total:

1. Pre-Mediation Form
2. Mediation Form
3. Post-Mediation Form
4. Accreditation Form
5. Accreditation Form (Passported)

Forms 1 to 3 can be completed by anyone who is working alongside the mediator and observing their practice, or offering support or feedback. This could be a co-mediator, a PPC, a regional manager or a service director as appropriate.

Form 4 certifies that a mediator has met all the training and practice requirements and can be accredited as a SEND mediator. It should therefore be signed by someone who is themselves an experienced SEND mediator, has observed them at least once, has played a specific role in mentoring the new mediator and supported them to reflect on their practice.

<p style="text-align: center;">FORM 1</p> <p style="text-align: center;">PRE-MEDIATION</p>	<p>Mediator:</p>	<p>Co-mediator / PPC /Manager/ Mentor:</p>	<p>Date: 1st / 2nd / 3rd Case</p>
<p style="text-align: center;">Process Management</p> <p>Make initial contact with parties Identify issues for mediation</p> <p>Screen for safety and suitability</p> <p>Determine:</p> <ul style="list-style-type: none"> - information required from whom - who should attend the meeting <p>Ensure child's or young person's views are incorporated appropriately</p> <p>Explore the active participation of the child or young person in mediation</p> <p>Establish informed consent</p> <p>Ensure compliance with SENCOP timescales</p> <p>Organise meeting date, time, venue as required by the service</p> <p>Ensure the mediation is accessible to those with SEND</p> <p>Inform participants</p> <p>Prepare for obvious sticking points</p> <p>Maintain accurate records as required by the service</p>			
<p style="text-align: center;">Skills and Knowledge</p> <p>Engage effectively with all parties</p> <p>Build trust and rapport</p> <p>Listen actively: reflect, summarise, show understanding, clarifying</p> <p>Explain mediation process, principles, mediator role</p> <p>Apply confidentiality appropriately</p> <p>Demonstrate impartial at all times</p> <p>Challenge appropriately</p> <p>Give information about SEND Tribunal + COP</p> <p>Signpost where necessary</p>			

<p>FORM 2</p> <p>MEDIATION</p>	<p>Mediator:</p>	<p>Co-mediator / PPC /Manager/ Mentor:</p>	<p>Date:</p> <p>1st / 2nd / 3rd Observation</p>
<p>Process Management</p> <p>Arrive punctually to prepare room</p> <p>Carry appropriate forms</p> <p>Conduct pre-meetings as required</p> <p>Establish arena (incl. ground rules)</p> <p>Manage introductions</p> <p>Clarify confidentiality</p> <p>Establish issues for each party and agree a mutual agenda</p> <p>Allow time for issues to be explored</p> <p>Ensure a child or young person is supported + the mediation is accessible to them.</p> <p>Assist in the identification and evaluation of potential options</p> <p>Build and secure agreement</p> <p>Manage time</p> <p>Offer breaks as appropriate</p> <p>Use separate meetings effectively</p> <p>Confirm outcome + next steps</p> <p>Issue of mediation certificate</p> <p>End mediation when necessary</p> <p>Close positively</p>			

<p>FORM 2</p> <p>MEDIATION</p>	<p>Mediator:</p>	<p>Co-mediator / PPC /Manager/ Mentor:</p>	<p>Date:</p> <p>1st / 2nd / 3rd Observation</p>
<p>Skills and Knowledge</p> <p>Engage effectively with all parties</p> <p>Create a safe environment:</p> <ul style="list-style-type: none"> - Positive welcome - Offer reassurance - Explain what will happen - Show confidence <p>Listen actively: reflect, summarise, show understanding, clarify</p> <p>Ensure all have opportunity to speak</p> <p>Ensure the views of the child or young person are considered and understood</p> <p>Facilitate constructive exchange</p> <p>Build understanding</p> <p>Manage interruptions + high conflict</p> <p>Acknowledge emotion</p> <p>Address power imbalance</p> <p>Navigate through the process</p> <p>Maintain impartiality</p> <p>Challenge appropriately</p> <p>Reality test proposals</p> <p>Apply knowledge of SEND context</p> <p>Work within an ethical framework</p> <p>Agree confidentiality and how it is to be applied in this situation</p> <p>Write clear SMART agreement</p>			

<p>FORM 3</p> <p>POST-MEDIATION</p>	<p>Mediator:</p>	<p>Co-mediator / PPC /Manager/ Mentor:</p>	<p>Date:</p> <p>1st / 2nd / 3rd Observation</p>
<p>Process Management</p> <p>Send out final agreements or other paperwork</p> <p>Complete case records</p> <p>Close file</p>			
<p>Skills and Knowledge</p> <p>Communicate clearly with all parties and ensure the process is accessible</p> <p>Clear feedback to service</p> <p>Close case in a timely manner</p>			
<p>De-brief and Supervision</p> <p>Key Strengths</p> <p>Key breakthrough points</p> <p>Key challenges and learning points</p> <p>Discussion of outcome</p> <p>Identification of</p> <ul style="list-style-type: none"> - Skills gaps - Knowledge gaps <p>Plan for meeting learning needs</p>			

<p>FORM 4</p> <p>ACCREDITED MEDIATOR</p> <p>Special Educational Needs and Disability</p>	<p>Mediator:</p> <p>PPC /Manager/Mentor:</p> <p>Date:</p>
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This is to certify that *name of mediator* has successfully completed the required training and gained the necessary experience to practice as an SEND Mediator:

- Foundation Training in Mediation** (minimum 40 hours)
Date of training: _____ Training Provider: _____
- Specialised Training in SEND Mediation** (minimum 12 hours)
Date of training: _____ Training Provider _____
- Casework** (minimum 12 hours)
Has worked as lead / co-mediator in the following cases
Case 1: *date*
Case 2: *date*
Case 3: *date*

Name of mediator has been observed mediating by *Name of Observer(s)* and has engaged in de-briefing and feedback sessions in order to reflect on and learn from their practice.

I, *Name of observer*, confirm that *name of mediator* has therefore achieved a high standard of practice and has met all the necessary standards of the College of Mediators and the Civil Mediation Council to be accredited as an SEND Mediator.

Signed:

Manager / PPC / Mentor **Mediator**

Appendix B: Content of Training Programmes

Training providers seeking approval from the College of Mediators or the Civil Mediation Council will need to demonstrate that their training programmes incorporate the following content.

The training should consist of four distinct modules:

1. The Legislative framework
2. Contextual knowledge of SEND
3. Mediation practice and the conduct of cases
4. Local processes and procedures

Each of these modules should cover the content outlined below, though some aspects will be covered in greater or lesser detail according to the prior experience of the participants. It is therefore left to the discretion of the training provider to decide the extent and depth to which different topics are covered.

Each module should incorporate opportunity for participants to reflect on their learning, identify the impact of new learning and consider future training needs.

Module 1: Legislative Framework

Module 1 should signpost the learner to the following pieces of legislation, highlighting as appropriate how they could be applied to different contexts:

Key Legislation

- Children and Families Act 2014
- SEND Code of Practice 2015 and SEND Regulations 2014
- Mental Capacity Act 2005
- Safeguarding legislation

Supplementary Legislation

Children Act 1989

Equality Act 2010

Care Act 2014

Education Act 1996 and Code of Practice 2001

Mental Health Act 1983, 2007

Chronically Sick and Disabled Persons Act 1974

Human Rights Act 1988

Working Together 2013

- Self-reflection and implications for personal development

It is expected that the key primary legislation would be covered in some detail while supplementary secondary legislation might be referred to and signposted.

Module 2: Contextual Knowledge SEND

Module 2 should cover the following topics

- Voice of the child or young person
- Language and definitions associated with SEND
- Understanding families and the processes by which SEND is identified
- How SEND support is structured and provided – the graduated response
- Role of professionals and who the child or young person is likely to engage with
- Types of SEND – general overview/awareness (signposting as can be explored in more detail as part of CPD process)
- Reasonable adjustments
- Education and Health Care plans

- Self-reflection and implications for personal development

Module 3: Mediation Practice and the Conduct of Cases

Module 3 should cover the following topics

Preparing for mediation: facilitating information exchange and clarifying agendas

Working with children and young people with SEND

Children and young people participating in mediation

Voice of the child

Authority to settle issues in SEND

Managing multi party meetings

Power balancing in SEND mediation

Agreement writing in SEND context

Working with advocates

Child protection

Mental capacity

Legal context:

Duties of LA education and schools

Duties on post 16 and FE

Duties of health and social care providers

SEND Tribunal

Case studies should be used to provide examples of key issues that typically require mediation.

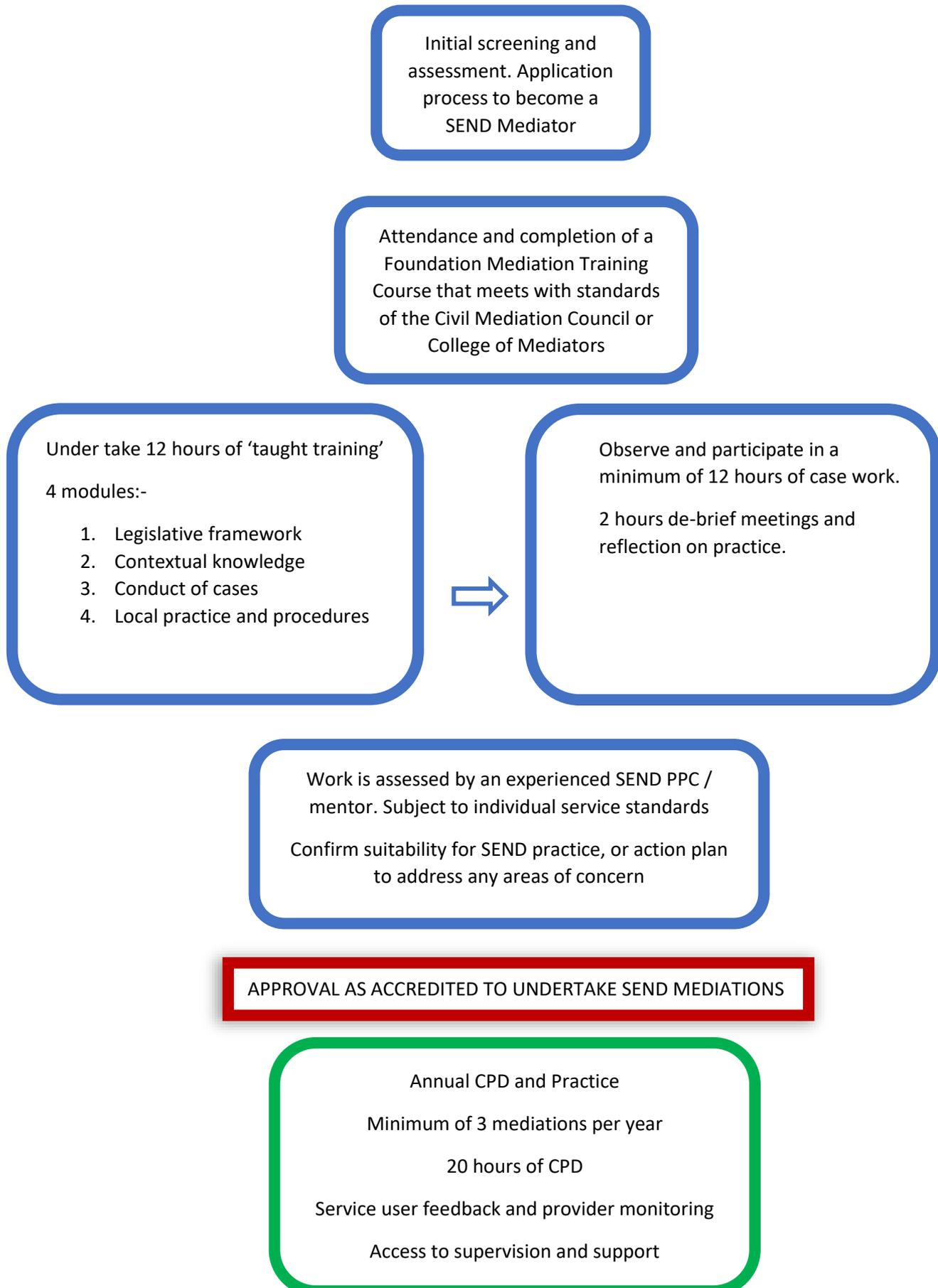
- Self-reflection and implications for personal development

Module 4: Local Processes and Local Procedures

Module 4 should cover service specific processes and procedures as appropriate to the local context:

- How the mediation provider works as an organisation
- LA local processes and the Local Offer
- Self-reflection and implications for personal development

Appendix C: Flow Chart: From Application to Accreditation



Appendix D: Guidance for Mediation Provider Organisations

1 Governance

- 1.1 Direct referrals to mediation and disagreement resolution services can be made by:
- children and young people from 0 - 25 years who have, or may have, SEN or a disability.
 - their parents and carers.
 - third party referrers who work with or are related to the child or young person.
- 1.2 Providers of mediation and disagreement resolution services should:
- comply with the Children and Families Act 2014, the SEND Regulations 2014 and the SEND Code of Practice 2015.
 - comply with all requirements of the EU General Data Protection Regulation (GDPR).
 - have a safeguarding policy that complies with current legislation and guidance. Providers should ensure that safeguarding children and vulnerable adults is central to their provision. All staff and mediators should have accurate, current training on safeguarding procedures and how to report concerns within the organisation and to external agencies.
 - work to the Codes of Conduct laid down by the Civil Mediation Council and the College of Mediators, as applicable.
 - ensure its mediators are accredited/registered and maintain the voluntary SEND mediator standards in their practice.
 - have a complaint and dispute resolution policy available online.
 - ensure that Equality and Inclusivity are reflected in policies and practice.
 - have adequate insurance cover in place to insure itself against any claim that it has negligently administered a mediation.
 - have clear lines of internal accountability and responsibility.

2 Evaluation and Development

Providers should continually strive to improve service provision by:

- demonstrating ongoing work with service users and stakeholders to promote and develop good practice.
- having a development plan which sets out clear targets and is reviewed regularly.
- implementing an evaluation procedure which encourages service users to provide feedback and provides a prompt response
- reviewing case progress to monitor and quality-assess procedures and outcomes.
- utilising the information gained through evaluation and review to improve internal procedures and mechanisms of delivery.
- collating feedback to share with Local Authorities, CCGs and other stakeholders, as appropriate, to contribute to the development of SEND outcomes, policies and practice.
- ensuring that mediators and staff have the necessary level of support, professional practice development and training to be up to date with and conscious of the changing demands of SEND mediation.

3. Access and Support for Service Users

Providers should ensure the service is accessible to all potential users and take steps to:

- make reasonable adjustments and take all possible steps to provide the service.
- provide clear explanations of the methods and processes used by the service
- promote and demonstrate ongoing engagement with young people, parents and carers.
- use various methods of communication and engagement to maximise the effective participation of young people, parents and carers.
- use various methods to ensure the views of children and young people are included in the mediation meeting.
- strive to build mutual trust and understanding with all service users.
- support all participants to feel safe, confident and knowledgeable about the process prior to the meeting.
- signpost to support and advocacy services where appropriate.
- ensure that sensitivity and respect towards co-workers, children, young people, parents, carers and all other participants underpins the work of the service at all levels.
- have a robust case management system in place to ensure that all duties in the service level agreement are carried out promptly, comprehensively and efficiently.

4. Conduct of Mediation

4.1. Providers should ensure that all staff and mediators are aware of and comply with the codes of conduct set out by the Civil Mediation Council and the College of Mediators (as applicable). In particular, providers and their staff should be aware of the importance of:

Independence: any mediation or disagreement resolution provision must be independent of local authorities or relevant health commissioners. No one who is directly employed by a local authority or a health commissioner should act as a mediator.

Impartiality: neither staff nor mediators should have any role in deciding outcomes of cases or any vested interest in the terms of agreement. They should not make judgements, take sides, give advice or propose solutions. They should not be biased or influenced by any party, policy or viewpoint.

Neutrality: Mediators do not represent any of the parties to mediation at any later tribunal proceedings relating to the dispute.

Confidentiality: The discussions held between the parties in mediation remain confidential, except where safeguarding concerns emerge, or the mediator has reason to believe that there has been criminal activity. Mediators should ensure that where information about outcomes needs to be shared with anyone not present at the mediation, there is clear agreement to do so by all participants.

4.2 Provision of Mediation Advice

In providing mediation advice and mediation certificates, Mediation Providers should comply with the Children and Families Act 2014, the SEND Regulations 2014 and the SEND Code of Practice 2015, in terms of supplying the relevant information and certificates within the relevant timescales.

Mediation advice should include a description of the process and timescale obligations; should be factual and unbiased; should not place pressure on parents, carers and young people to go to mediation or promote the use of any particular mediator above others within the service. Mediation advice should be delivered by providers and not by anyone who is directly employed by a local authority.