

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, and approved by the Civil Mediation Council (CMC) and the College of Mediators (COM). With the support of the Department for Education (DfE), these standards have been reviewed and updated in 2023 - 2024. They outline the requirements a mediator must meet in order to become a SEND Registered Mediator, listed on the CMC and COM Joint Register of SEND Mediators. Registered mediators are recognised by the CMC and the COM as suitably qualified and trained to offer SEND Mediation.

The CMC and the COM are independent standard setting bodies and offer membership to professional mediators working in a number of different contexts. Since 2018, the standards for SEND Mediators have been overseen by the SEND Mediation Panel chaired jointly by the CMC and the COM. The Panel is made up of Registered SEND Mediators as well as representatives of both these bodies.

Separate information and guidance is available on the CMC and COM websites 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').

CONTENTS

Definitions

Acknowledgements

1 Standards for Mediators

1.1 Training

1.2 Professional Practice

1.3 Registration

1.4 Membership of a Professional Body

2 Standards for Training Providers

3 Guidance for Mediation Provider Organisations

3.1 Model of Service Delivery

3.2 Governance

3.3 Evaluation and Development

3.4 Access and Support for Service Users

4 Appendices

4.1 Appendix A: Guidance for Registering SEND Mediators

4.2 Appendix B: Content of Training Programmes

4.3 Appendix C: Guidance on the SEND Legislative Framework Test

4.4 Appendix C: Flow Chart – Application to Registration

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, the option of mediation is available to parents and young people prior to lodging a formal appeal to the SEND Tribunal where there has been an appealable decision made, about an Education, Health and Care (EHC) Plan or an EHC needs assessment. In relation to certain local authority decisions parents and young people are required to consider mediation before bringing an appeal. Local authorities are required to participate in mediation where a parent or young person requests this. Mediation offers the possibility of hearing the voice of the child or young person concerned, as well as an opportunity to exchange information and reach understanding about their needs. The process can often result in finding a full or partial agreement. Where a parent or young person has received information from a mediator about the process, and where they have tried mediation or decided not to participate, a certificate is issued allowing the case to proceed to Tribunal.

Disagreement Resolution is also a means by which to resolve disputes through discussion and agreement, however, there are some differences: Disagreement Resolution provides a broader forum to address disagreements about any aspect of SEN provision, at any time and is undertaken voluntarily by all those involved. A party can request Disagreement Resolution where the right to statutory mediation does not apply. No certificate is issued following a Disagreement Resolution meeting. Chapter 11 of the SEND Code of Practice details the circumstances in which Disagreement Resolution can be used. A Disagreement Resolution Meeting can be facilitated by a SEND Mediator and given their experience in managing conflicts in the SEND arena, they are well equipped to do so.

SEND Mediator refers to a trained, registered mediator working in the SEND context who facilitates a constructive dialogue between participants and supports them to reach an agreement if possible.

SEND Mediation Provider (SMP) refers to an organisation providing Mediation and Disagreement Resolution Services to parties and referrers.

Sole Mediation Provider refers to an individual providing Mediation and Disagreement Resolution Services to parties and referrers.

Training Provider refers to an organisation that delivers 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 an experienced mediator trained to offer mentoring support and/or supervision.

Acknowledgements

These standards were initially 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:



1. Standards for Mediators

For a mediator to be listed on the CMC/COM Joint Register, they 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 position as a Registered SEND Mediator they must demonstrate that they keep up a level of practice annually, undergo professional development, reflect on their work and belong to a professional mediation body. These requirements are described more fully below.

1.1 Training

In order to be listed on the SEND Joint Register, mediators will be required to attend and successfully complete a specialised SEND Mediation training course, which provides the relevant contextual knowledge and elements of practice in this field. SEND specific training programmes must consist of a minimum of 12 hours' delivery and should be delivered by a provider recognised by the CMC / COM SEND Panel.

This is to be followed by a period of supported practice, which will be dependent on prior knowledge and experience. Upon registration mediators will need to demonstrate

- i) Competency in mediation skills
- ii) Knowledge of the relevant SEND legal framework

1.1.1 Competency in Mediation Skills

Individuals applying to undertake specialised SEND mediation training must previously have attended a foundation course in mediation skills. 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 CMC or the COM; 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

In most circumstances, it is expected that trained mediators will have practical experience of mediating cases before attending a course on SEND mediation. Where this is not the case, they will be expected to build their mediation experience through a lengthened period of supported practice after training and a Personal Development Plan agreed with their PPC or SMP. The Plan will detail their training and development to date, together with their future training needs. It will need to be completed and submitted when applying for registration (see *1.2 Professional Practice* below).

1.1.2 Knowledge of the relevant SEND legal framework

Specialised SEND Mediation training will cover some aspects of the legal context, particularly in relation to the mediation process. However, before registration as a SEND Mediator, applicants will be required to demonstrate a higher level of knowledge of the relevant SEND legislation, SEND Code of Practice, Guidance, Policy and Procedures which may be obtained through a variety of different routes, for example:

- attending training courses run by a recognised provider in the SEND field such as IPSEA
- guided self-study as part of a Personal Development Plan, agreed with a PPC or SMP
- prior SEND experience in another professional role

When applying to be listed on the Joint Register, the mediator will be required to successfully complete an online test set by the CMC / COM SEND Panel to assess knowledge of the relevant SEND legal framework and its applicability to SEND mediation.

1.2 Professional Practice

After having attended a specialised training programme, mediators will be required to engage in a period of supported practice to become registered.

Each mediator must have the support of a PPC or mentor who is either designated by the SMP, or is an external PPC listed on the College of Mediators' register of PPCs. A designated PPC / mentor should have considerable experience of SEND mediation and of supervising or mentoring. PPCs / mentors will be required to submit a simple statement verifying their experience, which will be held by the SEND Panel.

As a minimum, the practice period should consist of at least 16 hours of casework made up of a combination of the following:

- observations
- co-mediations
- assessed role play (where it is difficult to obtain real case experience)
- taking a lead on two assessed cases.

'Taking a lead' on cases means preparing for the case, conducting the mediation meeting, writing up any agreements and completing any paperwork. While a registered SEND Mediator will be present for the mediation, their role is to observe and only to intervene where absolutely necessary.

In one of these cases, the issue for mediation should be a request for an EHC needs assessment, in the other issues should be about the content of an EHCP.

In addition, the practice period should include a minimum of 3 hours reflection on casework.

It is recognised that individuals will enter this field of practice with varying degrees of confidence in either mediation skills, contextual knowledge or both. Therefore, after training a Personal

Development Plan should be drawn up between the newly trained SEND Mediator and their PPC, mentor or SMP, which takes account of their current strengths and areas for development. The Plan should aim to support the mediator to take appropriate steps to arrive at a point where they can apply for registration. It should be filled in and submitted together with their application to be on the register.

Wherever possible mediators should build their professional skills by working on real cases. However, where it proves difficult to do this skills development can be undertaken through role play. Mediators may be able to do this for example, as part of team development sessions or by attending Professional Practice Days run by mediation providers. In order to apply for registration however, the mediator must be able to evidence that they have experience of acting as lead mediator in at least two real cases.

Where a mediator has been recruited and trained by a SMP 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 and to find a PPC or mentor for their work.

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 that they meet the required standards and can apply the knowledge and learning from the taught programme, by observing at least two cases, participating in co-mediations and taking the role of lead mediator in two further cases. 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 Registering SEND Mediators).

These are **minimum** standards for this period of supported practice. In some situations, SMPs themselves may require a greater level of experience before putting a mediator forward for registration. In other cases, either the mediator or the PPC / mentor (or both) may be of the view that further practice is required to build up mediating experience, SEND knowledge or both to a satisfactory level. This should be agreed on a case-by-case basis between the mediator and the PPC / mentor. The mediator will require an endorsement from their PPC / mentor to verify that they have met the required standard to apply for registration.

1.3 Registration

The period of practice will culminate in 2 final cases, observed by an experienced SEND Mediator who has the authority to verify that they have reached a sufficient standard of practice to be registered using the criteria outlined in Appendix A. This may be an external PPC listed on COM's register of PPCs, or a designated internal member of staff working for a Mediation Provider Organisation with the relevant experience (see 1.2 above).

1.3.1 Applying for Registration.

In order to apply for registration, the mediator will be required to submit:

- Form 4, signed by PPC / mentor / manager
- A write up of two cases by the mediator using forms 1, 2 and 3
- Observations of the mediator leading in 2 cases by their PPC / mentor / manager using forms 1, 2 and 3
- A Personal Development Plan detailing training undertaken and future training needs
- An online test examining their knowledge of the legal context
- A copy of their own, or the SMP's, complaints policy
- Details of their personal liability insurance
- Certificates of completion of the foundation and SEND Mediation Courses

The issues for mediation in one of the cases should include a request for assessment, and in the other the content of an EHCP.

1.4 Membership of a Professional Body

In order to be registered as a SEND Mediator the practitioner will be a member of either the Civil Mediation Council or the College of Mediators. This may be through individual membership, or in the case of the CMC, by sitting on the panel of a CMC Registered Mediation Service Provider. These bodies maintain a joint register of registered SEND Mediators which 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.

1.4.1. 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 / Mentor.
- ii. Membership of a Panel: individuals work for a SEND Mediation Provider that is registered as a panel with the CMC and undertakes to ensure that all their panel members meet the necessary standards and requirements in terms of training, practice, CPD and mentoring / or supervision.

1.4.2. In order to maintain membership of a professional body mediators will be required to re-register on an annual basis.

Mediators are expected to maintain records of their mediation activity and to demonstrate how they regularly ensure their personal development through:

- reflection and learning on practice
- the identification of areas for improvement
- keeping up to date with changes in law or policy

Upon re-registration mediators will be required to:

- provide evidence of a minimum of 10 hours completed CPD activity (mediation specific, not necessarily SEND specific)

- verify that they have additionally accessed a minimum of 4 hours mentoring support / supervision / peer discussion (SEND mediation specific)
- verify that they have completed at least **three** SEND mediation cases.

Peer observation, team discussions and user feedback are all recommended as helpful ways to review personal practice.

CPD is an important element to ensure ongoing monitoring and learning. CPD can be completed through a variety of methods such as role play, reading, training, on-line learning, leading team discussion and attending conferences.

Both individual and panel applications are subject to annual renewal and spot checks to verify that these requirements are met.

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

2. Standards for Training Providers

Training providers wishing to deliver courses that will enable mediators to become SEND registered 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.

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 (including online working)
 - Local processes and procedures

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

Training providers should bear in mind that delegates must complete a minimum further 16 hours of professional practice and 3 hours of reflection before applying for registration. 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

This section outlines the minimum requirements that Mediation Service Providers are expected to meet in order to provide a service of high quality. The following expectations have been set by the Civil Mediation Council and the College of Mediators to ensure a robust model of delivery is applied consistently and that service user experience is equitable across the sector.

These expectations relate to four fundamental aspects of service provision:

- Model of Service Delivery
- Governance
- Evaluation and Development
- Access and Support for Service Users

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

3.1 Model of Service Delivery

3.1.1 Once the Parent or Young Person (PYP) has made an enquiry to the SMP or a Sole Mediation Provider, they should contact the PYP within 3 working days to arrange a date to deliver the Mediation Information and Advice Service (MIAS) meeting. MIAS meetings must fulfil the requirements or guidance set out in the following:

- *Children and Families Act 2014*
- *Special Educational Needs and Disability Regulations 2014* (see Part 2 Children and young people with special educational needs: Mediation)
- *Special Educational Needs and Disability Code of Practice 2015*.

These meetings should be adapted to meet the particular needs of the PYP.

3.1.2 If, following (or during) the MIAS meeting, the PYP makes the decision to proceed with mediation, the SMP or Sole Mediation Provider must:

- a. Make a referral to the LA **within 3 working days** of being informed of this decision.
- b. Assign the case to a mediator, who will aim to contact the PYP **at least 7 working days** before the date for the mediation, to arrange a pre-mediation conversation (unless the mediation has been arranged at shorter notice, in which case the mediator must arrange the pre-mediation conversation at the earliest opportunity).
- c. Where health or care issues have been raised the mediation provider should inform the LA.

3.1.3 In preparation for the mediation, the mediator will make all reasonable efforts to establish contact and offer to have pre-mediation conversations with the key participants, including the appropriate LA/Health/Social Care representative/s and representative/s of the educational institution/s (where applicable). The objective is for the mediator to clarify the issues, ascertain decision-making authority, ascertain how best to include the views of the child or young person in

the process, help the participants to identify relevant information, explain the process and prepare the participants. These preparations are made in order to increase the likelihood of a mutually acceptable outcome at mediation.

3.1.4 The mediator should respond promptly to correspondence from any of the participants and be prepared to share information between them (with their agreement) prior to the mediation, if doing so is in the best interests of a successful resolution to the case.

3.1.5 The mediator must apply regulation 38 of the *Special Educational Needs and Disability Regulations 2014* (and relevant case law) in determining which participants should attend the mediation. Participants should be informed of the attendees in advance of the meeting.

3.1.6 An appropriate amount of time, usually a **minimum of two hours**, should be booked for the mediation meeting. There may be complex cases where more time is needed, and in these cases the duration of the meeting should be agreed in advance. Other adjustments for additional needs will sometimes require a flexible approach to the format, process and timing of the mediation.

3.1.7 The mediator should record all points of agreement between the participants in drafting an Action Plan or Outcome Statement ('Mediation Agreement') and should use wording agreed by them. The Mediation Agreement should be shared with all the participants **on the same day** if possible, or by the next working day at the latest.

3.1.8 All agreed actions in the Mediation Agreement should be **SMART** (specific, measurable, achievable, realistic, and time-bound), and compliant with timeframes specified in regulation 42 of the *Special Educational Needs and Disability Regulations 2014*.

3.1.9 The mediator should strive to ensure all parties are treated fairly and equally. On occasion, the mediator may test parties' positions and statements to ensure a safe and fair process.

3.1.10 The mediator and SMP should work to the following principles:

- **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 can act as a mediator. The mediator must not represent any of the parties to mediation at later proceedings relating to the dispute.
- **Impartiality:** neither staff nor mediators can have any role in deciding outcomes of cases or any vested interest in outcomes. They do not take sides, give legal advice or impose solutions.
- **Confidentiality:** The content of the discussion at mediation is confidential, except where:
a) there is clear agreement by all participants to share points of discussion outside of mediation
b) there is reason to believe that there might be safeguarding issues or
c) criminal activity. Additionally, the mediator should not share information between parties without consent.

3.2 Governance

3.2.1 Direct referrals to mediation and disagreement resolution services can be made by young people, parents and carers or third-party referrers.

3.2.2 Mediation Service Providers should:

- comply with the Children and Families Act 2014, the Special Educational Needs and Disability Regulations 2014 and have regard, where appropriate, to the SEND Code of Practice 2015 in all aspects of service delivery.
- 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, young people 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.
- only use mediators listed on the Civil Mediation Council and the College of Mediators SEND Joint Register.
- 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 or disagreement resolution process.
- have clear lines of internal accountability and responsibility.

3.3. Evaluation and Development

Mediation Service 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 enables/encourages service users to provide feedback about the service in an easily accessible form, covering all parts of service delivery, 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, Integrated Care Boards 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 the changing demands of SEND mediation.

3.4. Access and Support for Service Users

3.4.1 Mediation Service Providers should seek as far as possible to ensure the service is accessible to all potential users. Feedback from consultation and evaluation from users highlights the importance of giving clear information, early in the process, managing a safe space to talk, listening well and responding flexibly and fairly.

3.4.2 Mediation Service Providers should therefore take steps to:

- make adjustments to the regular delivery of the service where the particular needs of users and participants may otherwise prevent them taking part.
- 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.
- support all participants to feel 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 underpin 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. Appendices

4.1 Appendix A: Guidance for Registering SEND Mediators

The forms in this document are intended to be used to support the process of registering a SEND Mediator. They cover all the necessary requirements to meet the standards laid down by the College of Mediators and the Civil Mediation Council and should be read in conjunction with them. 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 working in a number of cases 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 observed skills and identify gaps in practice. 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 working towards registration will usually be experienced mediators. The main purpose of this process is to assess: knowledge of the SEND context and 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 four forms in total:

1. Pre-Mediation Form
2. Mediation Form
3. Post-Mediation Form
4. Registration Form

Forms 1 to 3 can be completed by the mediator themselves and/or 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.

A set of these forms should also be completed, anonymised and submitted by the mediator and the PPC / mentor / manager to write up their two case studies for registration purposes.

Form 4 certifies that a mediator has met all the training and practice requirements to apply for registration 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>Observer / PPC /Manager/ Mentor / Co-mediator:</p> | <p>Date: Case no.</p> |
|---|-------------------------|--|---|
| <p style="text-align: center;">Process Management</p> <p>Make initial contact with parties</p> <p>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 timescales in the Regulations are met</p> <p>Organise meeting date, time, venue as required by the service</p> <p>Ensure the mediation is accessible to those with specific needs as far as possible</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, clarify</p> <p>Explain mediation process, principles, mediator role</p> <p>Apply confidentiality appropriately</p> <p>Demonstrate impartiality at all times</p> <p>Challenge appropriately</p> <p>Give information about SEND Tribunal and Code of Practice</p> <p>Signpost where necessary</p> | | | |

| <p>FORM 2</p> <p>MEDIATION</p> | <p>Mediator:</p> | <p>Observer / PPC /Manager/ Mentor / Co-mediator:</p> | <p>Date:</p> <p>Case no.</p> |
|---|-------------------------|--|--|
| <p>Process Management</p> <p>Arrive punctually to prepare room / online environment</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 if 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>Observer / PPC /Manager/ Mentor / Co-mediator:</p> | <p>Date:</p> <p>Case no.</p> |
| <p>Process Management</p> <p>Send out final agreements or other paperwork in a timely way</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>Application to be a REGISTERED MEDIATOR</p> <p>Special Educational Needs and Disability</p> | <p>Mediator:</p> <p>PPC /Manager/Mentor:</p> <p>Date:</p> |
|--|--|

This is to certify that *name of mediator* has successfully completed the required training and gained the necessary experience to practise as a SEND Mediator.

Please complete the details below to confirm that all requirements are met:

- 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 16 hours)

| | Dates | No. of hours |
|---|-------|--------------|
| Observations | | |
| Co-mediation | | |
| Assessed role play (if required) | | |
| Lead mediator | | |

- Reflection on Practice** (minimum 3 hours)
- Completed online test on SEND legal framework**
- Personal Development Plan** (completed with a PPC / SMP)

Please confirm that you are submitting the following with your application:

- Training Certificates for foundation and specialised SEND training

- Forms 1, 2 and 3 giving details of 2 anonymised cases completed i) by the mediator ii) by the PPC / SMP
- Personal Development Plan
- A copy of your own or your service's complaints policy
- Details of your personal liability insurance

Signed:

Mediator

Date:

To be completed by PPC / SMP

I, *Name of observer*, confirm that *name of mediator* has:

- completed the required training and casework hours
- has undertaken a minimum of 3 hours reflection on their practice
- has achieved a high standard of practice
- has met all the necessary standards of the College of Mediators and the Civil Mediation Council to be registered as a SEND Mediator.

I confirm that I have significant experience as a SEND mediator, am on the SEND register and am in a position to provide mentoring / PPC support to the mediator named above.

Signed:

Manager / PPC / Mentor

Date:

4.2 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 listed below. Some aspects may be covered in greater or lesser detail according to the prior experience of participants. It is 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: Legislation and Guidance

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

Key Legislation

- The Children and Families Act 2014
- The Special Educational Needs and Disability Regulations 2014
- The Special Educational Needs and Disability (First-tier Tribunal Recommendations Power) Regulations 2017.
- The Mental Capacity Act 2005
- The Children Act 1989 (s17 relating to Safeguarding Children)
- The Safeguarding Vulnerable Groups Act 2006

Statutory guidance

- The Special Educational Needs Code of Practice 2015.

Supplementary Legislation and statutory guidance

The Children Act 1989
 The Equality Act 2010
 The Care Act 2014
 The Mental Health Act 1983, 2007
 The Chronically Sick and Disabled Persons Act 1970
 The Human Rights Act 1998
 Working Together to Safeguard Children 2023)

It is expected that the key primary legislation and statutory guidance 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 typically 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, Health and Care plans
- Integrated Care Boards. [NHS England » Integrated care boards in England](#)
- 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, schools and early years providers
 - Duties on post 16 and FE
 - Duties of health and social care providers
 - First-tier Tribunal (Special Educational Needs and Disability)

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 SEND Local Offer
- Self-reflection and implications for personal development

4.3 Appendix C: Guidance on the SEND Legislative Framework Test

Scope of the test

The test on the SEND legislative framework covers various aspects of the legislation governing SEND mediation and the statutory framework relevant to the issues which are mediated in the SEND context. The test will require candidates to demonstrate knowledge of:

- Statutory provisions governing the mediation process, mediation advice and mediation certificates, including duties upon local authorities, health commissioners and mediation providers, as outlined in the Children and Families Act 2014 and SEND Regulations 2014.
- The guidance on mediation & disagreement resolution arrangements in Chapter 11 of the SEND Code of Practice.
- The circumstances in which the right to mediation and tribunal arises, the requirement to obtain a mediation certificate and associated timeframes, including for lodging a tribunal appeal.
- Key legal tests to be applied by local authorities in making decisions relating to EHCP processes (such as EHC needs assessments and naming an educational placement in Section I) as outlined in the Children and Families Act 2014.
- Other statutory duties upon local authorities in relation to EHCP processes (such as the requirement to review an EHCP annually) as outlined in the Children and Families Act 2014 and SEND Regulations 2014.
- The purpose of each section of an Education, Health and Care Plan.
- Duties upon educational settings in relation to the Equality Act 2010 and provision of SEN Support for Children and Young People, as outlined in the Children and Families Act 2014 and SEND Code of Practice.
- Issues concerning capacity and young people's participation in SEND mediation, including relevant provisions in the Mental Capacity Act 2015 and the Children and Families Act 2014.

The test is 'open book' and therefore does not require applicants to memorise legal timeframes or specific wording verbatim, but will require applicants to demonstrate an ability to apply knowledge of the SEND legal framework to scenarios which a mediator will encounter in practice. This will include ensuring a safe and fair process whilst retaining impartiality.

Arrangements for taking the test

The test consists of multiple-choice questions. Applicants should be able to complete the test within an hour. The pass mark is 80%.

Once an applicant is ready to apply to join the Register of SEND Mediators and to take the test, they should notify the body through which they intend to register (either the CMC or COM). The CMC/COM will then send the test to the applicant via an online link. The applicant will need to complete the test within 72 hours.

An applicant who does not pass the test on their first attempt will have the opportunity to resit. The questions will be the same as on the initial test. The applicant will need to complete the resit test within 72 hours of receiving their initial test result.

An applicant who does not pass their resit test is required to wait three months and will then be offered a second resit opportunity. This second resit test will consist of different questions to the test initially taken.

An applicant who does not pass the second time will be asked to undertake the period of supported practice again and provide an updated Personal Development Plan.

4.4 Appendix C: Flow Chart: From Application to Registration

