# 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.

These standards cover the following:

## Standards for Mediators

### Training

### Professional Practice

### Accreditation

### Continuing Professional Development

### Membership of a Professional Body

### Passporting Arrangements for existing SEND mediators

## Standards for Mediation Provider Organisations

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### 5.1 Appendix A: Guidance for Accrediting Mediators

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**SEND Mediator** refers to a trained mediator working in the SEND context.

**Mediation Provider Organisation** refers to organisations providing mediation services to parties and referrers.

**Sole Mediation Provider** refers to individuals providing mediation services 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.

## 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. 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; 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 the mediator should 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.

### 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 an 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 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 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 several cases, that they can apply the knowledge and learning from the taught programme. There should be opportunities for a de-briefing meeting 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).

###  Accreditation

This period of practice will culminate in a final case, observed by an experienced mediator who has the authority to verify that the mediator has reached a sufficient standard of practice to be accredited.

This may be an external supervisor listed on the College of Mediators’ register of Professional Practice Consultants 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.

Normally, after observation, a mediator will have taken an active role in 3 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.

Existing SEND mediators who are in current practice may be passported through these procedures (please see paragraph 1.6 below).

###  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. 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.

1.4.2 Continuous monitoring and reflection on practice through:

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

### Membership of a Professional Body

1.5.1. Mediators will be members of a professional body of mediators. The Civil Mediation Council and the College of Mediators will maintain a joint register of accredited SEND mediators that is accessible to the public.

1.5.2. Membership will be via one of two routes:

1. Individual membership: individuals apply and must be able to show that they meet the necessary requirements in terms of training, practice, cpd and mentoring / supervision. Individual applications are verified by a supervisor.
2. 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 requirements in terms of training, practice, cpd and mentoring / supervision. Panel applications will be subject to spot checks to verify these requirements are met.

1.5.3. 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 hourscompleted CPD activity

- verify that they have completed at least 3 mediation cases.

- verify that they have accessed mentoring support / supervision

CPD can 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.

### Passporting Arrangements for current SEND mediators

Passporting arrangements will be put in place to allow existing SEND Mediators to continue to offer SEND mediation without the need for further accreditation. These transitional arrangements recognise SEND mediators who are already practising and allows them to be exempted from the new training requirements. The supervising mediator or manager of the relevant Mediation Provider Organisation must provide a declaration of competence by [*Insert date*] to the effect that the mediator is trained to the required level and is competent and experienced in their role. Mediators who are to be passported must be able to satisfy the exemption criteria set out in either (A) or (B) 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 may be offered an exemption. Membership can be evidenced by the Mediation Provider Organisation confirming panel membership.

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

It is recognised that there are a small number of mediators who formed part of the movement to introduce mediation in the UK in the 1980’s and who have been offering SEND mediation for many years. They helped to develop both mediation practice and accredited training for mediators. However, as pioneers, they have not necessarily undertaken accredited training themselves. These mediators will be able to evidence consistent ongoing mediation experience and CPD leading up to implementation of the new mediation standards.

## Standards for Mediation Provider Organisations

Mediation Provider Organisations must demonstrate that they meet the organisational standards outlined below. These identify the standards and their descriptions in 4 main categories:

A Commissioning and Governance

B Strategic Functions

C Provision of Independent Mediation Information

D Supporting Service Users

A Commissioning Governance and Management Arrangements

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| **1 The Service is commissioned in accordance with the SEND Code of Practice 0-25 years** |
| 1. The commission should secure the provision of Independent Disagreement Resolution (DR) and Mediation Services to:
2. The parents of children and young people between 0 and 25 years who have, or may have, SEN or a disability
3. Children and young people who have, or may have, SEN or a disability.
4. Arrangements for the Service are based on clear lines of accountability with effective leadership
5. The Service is planned, monitored, reviewed and evaluated and prompt actions are taken to improve services and meet service users’ needs.
6. Service Managers provide Training, supervision and support for staff and mediators (See Section 5 below)
7. The Service complies with current safeguarding children legislation and guidance. All staff and Independent mediators who may have contact with children and young people are trained in, and have accurate and up to date knowledge of safeguarding children.
8. The Service has a robust Quality Control Assurance system in place that drives a continuous improvement cycle: Plan, implement, review and act.
9. The Service has a robust Case Management System in place
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B Strategic Functions

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| **2 Involvement and Participation** |
| 1. The Service works in partnership with service users and stakeholders to share promote and develop good practice.
2. Where appropriate, the Service may provide agreed feedback to LAs and CCG’s which could inform and influence decisions on SEND policies, procedures and practices
3. The service builds trust with all service users and ensures they feel safe
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C Provision of Independent Mediation Information

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| **3 Accessibility of Service****4 Impartiality of Service** |
| 3.a Service is easily accessible to young people, families, commissioners and all potential service users.4.a Potential Service Users are aware of the Service and what it can offer them  |

D Supporting Service Users

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| **5 Confidentiality** **6 Safety, Trust and Confidence** |
| 1. The Service provides confidential support to Service users.
2. The Service builds trust and confidence.
3. The Service makes service users feel safe and confident in the process
4. Service staff and mediators are impartial at all times
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## 3 Standards for Training Providers

* 1. Training providers wishing to deliver courses that will enable mediators to become SEND accredited must be approved by the COM or the CMC, whether as part of a panel of SEND mediation providers or as sole training provider.

3.2 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:
* The Legislative Framework
* Contextual knowledge of SEND
* Mediation practice and the conduct of cases
* Local processes and procedures

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

3.3 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 guidance and consider the arrangements they have in place in order that trainees can access the necessary practice.

## 4. 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:

Global Mediation

KIDS

Prime Resolution

Steve Hindmarsh Ltd

Together Trust

Particular thanks go to KIDS who contributed the basis of the organisational standards which were subsequently adopted by the working group.

The CMC and COM are grateful for the support and involvement of the DfE in this work.

## 6. 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 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 four forms in total:

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

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 supervisor, 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 an 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.

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| FORM 1**PRE-MEDIATION** | **Mediator:** | **Co-mediator / Supervisor /Manager:** | **Date:****1st / 2nd / 3rd Case**  |
| **Process Management**Make initial contact with parties Identify issues for mediationScreen for safety / suitabilityDetermine:- information required from whom- who should attend the meetingEnsure child /YP views are incorporated appropriatelyEncourage the active participation of the child / YPEstablish informed consentEnsure compliance with SENCOP timescalesOrganise meeting date, time, venue as required by the serviceEnsure the mediation is accessible to those with SENDInform participantsPrepare for obvious sticking pointsMaintain accurate records as required by the service |  |
| **Skills and Knowledge**Engage effectively with all partiesBuild trust and rapportListen Actively: reflect, summarise, show understanding, clarifyingExplain mediation process, principles, mediator roleChallenge appropriatelyRemain impartialGive information about SEND Tribunal + COPSignpost where necessary |  |
| FORM 2**MEDIATION** | **Mediator:** | **Co-mediator / Supervisor /Manager:** | **Date:****1st / 2nd / 3rd Observation** |
| **Process Management**Arrive punctually to prepare roomCarry appropriate formsConduct pre-meetings as requiredEstablish arena (incl. ground rules)Manage introductionsClarify ConfidentialityEstablish issues for each party and agree a mutual agendaAllow time for issues to be exploredAssist in the identification and evaluation of potential optionsBuild and secure agreementManage timeOffer breaks as appropriateUse separate meetings effectivelyConfirm outcome + next stepsIssue of Mediation CertificateEnd mediation when necessaryClose positively  |  |
| FORM 2**MEDIATION** | **Mediator:** | **Co-mediator / Supervisor /Manager:** | **Date:****1st / 2nd / 3rd Observation** |
| **Skills and Knowledge**Engage effectively with all partiesCreate a safe environment:* Positive welcome
* Offer reassurance
* Explain what will happen
* Show confidence

Listen Actively: reflect, summarise, show understanding, clarifyEnsure all have opportunity to speakEnsure the views of the child / YP are considered and understoodFacilitate constructive exchangeBuild understandingManage interruptions + high conflictAcknowledge emotionAddress power imbalanceNavigate through the processMaintain impartialityChallenge appropriatelyReality test proposalsApply knowledge of SEND contextWork within an ethical frameworkWrite clear SMART agreement |  |
| FORM 3**POST-MEDIATION** | **Mediator:** | **Co-mediator / Supervisor /Manager:** | **Date:****1st / 2nd / 3rd Observation** |
| **Process Management**Send out final agreements or other paperworkComplete case recordsClose file |  |
| **Skills and Knowledge**Communicate clearly with all partiesClear feedback to serviceClose case in a timely manner |  |
| **De-brief and Supervision**Key StrengthsKey breakthrough pointsKey challenges and learning pointsDiscussion of outcomeIdentification of* Skills gaps
* Knowledge gaps

Plan for meeting learning needs |  |

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| FORM 4**ACCREDITED MEDIATOR****Special Educational Needs and Disability** | **Mediator:****Supervisor /Manager:** **Date:** |
| **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 requirements of the College of Mediators and the Civil Mediation Council to be accredited as an SEND Mediator.**Signed:****Manager / Supervisor 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.

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| **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:**Primary Legislation* Children and Families Act 2014
* SEND Code of Practice 2015 and SEND Regulations 2014
* Mental Capacity Act 2005
* Safeguarding Legislation

Supplementary LegislationChildren Act 1989Equality Act 2010Care Act 2014Education Act 1996 and Code of Practice 2001Mental Health Act 1983, 2007Chronically sick and Disabled Persons Act 1974Human Rights Act 1988Working Together 2013* Self-reflection and implications for personal development

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

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| **Module 2: Contextual Knowledge SEND**  |
| **Module 2 should cover the following topics** * Voice of the CYP
* Language/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 CYP 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
* EHC plans
* Self-reflection and implications for personal development
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| **Module 3: Mediation Practice and the Conduct of Cases**  |
| **Module 3 should cover the following topics** Preparing for mediation: facilitating information exchange and clarifying agendasWorking with children and young peopleChildren and young people participating in mediationVoice of the childAuthority to settle issues in SENDManaging multi party meetingsPower balancing in SEND mediationAgreement writing in SEND contextWorking with advocatesChild protectionMental capacityLegal context: Duties of LA education and schools Duties on post 16 and FEDuties of health and social care providersSEND Tribunal**Case studies** should be used to provide examples of key issues that typically require mediation.* Self-reflection and implications for personal development
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| **Module 4: Contextual Knowledge SEND** |
| **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
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**Appendix C: Flow Chart: From Application to Accreditation**

Initial screening and assessment. Application process to become a SEND Mediator

APPROVAL AS ACCREDITED TO UNDERTAKE SEND MEDIATIONS

Annual CPD and Practice

Minimum of 3 mediations per year

20 hours of CPD

Service user feedback and provider monitoring

Access to supervision and support

Work is assessed by an experienced SEND supervisor / mentor. Subject to individual service standards

Confirm suitability for SEND practice, or action plan to address any areas of concern

Observe and participate in a minimum of 12 hours of case work.

2 hours De-brief meetings and reflection on practice.

Under take 12 hours of ‘taught training’

4 modules:-

1. Legislative Framework
2. Contextual Knowledge
3. Conduct of cases
4. Local practice and procedures

Attendance and completion of a Foundation Mediation Training Course that meets with standards of the Civil Mediation Council or College of Mediators