

SEN MEDIATION – REGIONAL COORDINATOR NETWORK

The Voice of the Child in SEN Mediation

Policy

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Context

In recent years, public opinion, social attitudes and policy have moved from the concept that children have neither the right nor the ability to be involved in decisions affecting their future, to one of citizenship. In this model children are recognised as 'agents' who are able to make sense of their world and make informed decisions within it. They are not only given the right to be heard, but legal duties are now placed on authorities to involve them.

Article 12 of the United Nations Convention on the Rights of the Child states that the child has a right to express their views freely in all matters affecting them and provides the opportunities by which this may be undertaken.

More recently, in the 1989 Children Act and the SEN Code of Practice there is a legal duty on authorities and the courts to consider the wishes of children when making decisions about their future.

This extension of duty has been endorsed in the Bill, Every Child Matters*. (This is due to be enacted in the Autumn of 2004). A key message that emerged from the consultation meetings with children was that they wanted to be involved in decisions affecting their lives. Moreover, the Government has created a new Minister for Children, Young People and Families in the belief that '*real service improvement is only attainable through involving children and young people and listening to their views.*'

Principles underpinning mediation work

- The mediator has a responsibility to ensure that the views of the child are ascertained.
- The child has a right to be seen as an independent entity and not merely as an adjunct to his or her parents or carers.
- The mediation process welcomes the opportunity to hear the views of the child and aims to be child-focused in its practices and procedures.

- The child is not to be used as a piece of evidence at the mediation meeting. Similarly, any representation (letters, drawings, tapes etc) of his or her views is simply a means to convey views and have those views taken into account.

POLICY

1. Mediators should actively seek the views of the child whether directly themselves or through a third party. These views, wherever possible with the child's consent, should become part of the exploration of issues in the mediation.
2. The mediator has to be clear about the purpose of his/her discussions with a child.
3. The child should be given the opportunity to consider how far they want to be involved in the process, if at all. This should be based on information given to them in the most appropriate way, about the mediation process and how it works. They also have the right to refuse to participate. Any decision should be an informed one.
4. There are a number of ways in which the views of the child may be established. This could be at any stage in the process and may or may not be through direct participation in the mediation meeting.
5. Acknowledgement that there are circumstances (for example age, nature of SEN) which make it impossible (given the time limitations of the process) to ascertain the views of a child.
6. When considering to what extent a child may or may not be involved within the mediation process, factors such as age, maturity and capacity to participate should be taken into account. A further consideration would be how far the views of the child have already been established by others involved.
7. When a mediator identifies a need to have a planned meeting with a child on their own, this decision needs to be in consultation with their supervisor and with the agreement of the parent, child and other key parties. A parent or third party should always be close at hand, or present at the meeting itself.

8. The child should be kept informed of the outcome of discussions. Consideration should be given to the most appropriate way of doing this.
9. The service has the right to decide that it may be inadvisable for the child to take part in the mediation process.
10. All members of the service who may have contact with children should be CRB checked.

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