SEN Mediation Service available for parents, carers, children, young people and professionals in County Durham

Partnership with Durham County Council, North Durham Clinical Commissioning Group and Durham Dales, Easington and Sedgefield Clinical Commissioning Group

Unite are very pleased to announce that they are working in partnership with Durham County Council, North Durham Clinical Commissioning Group and Durham Dales, Easington and Sedgefield Clinical Commissioning Group to provide a Special Educational Needs Mediation (SEN) Service for parents, carers, children, young people and education and health professionals in County Durham.

SEN mediation overview
The focus of SEN Mediation is on the child and his/her current and future educational needs. Mediation works because the parties are in control and make their own decisions. A neutral mediator facilitates the process and helps parties involved in a dispute to negotiate an agreement, ensuring that the agreement they reach is workable and is acceptable to everyone. The process begins with separate meetings with each party, giving them an opportunity to outline their issues and describe how they would like things to be in the future. The Mediator then brings all the parties together in a joint meeting, to discuss the issues they have identified and together explore possible ways forward. Wherever possible, all the meetings take place on the same day. It is a confidential process, which means that whatever is said during the mediation process is ‘without prejudice’ and cannot be used in any later proceedings without the permission of everyone involved, including the mediator. This means that parties can share information openly and use it to work together on problem solving, without worrying about any “come back”.

Background information about Unite
Unite’s team of specially trained mediators have been delivering an independent SEN Mediation service across the North East since the introduction of the Special Educational Needs and Disability Act 2001. The Act placed a legal duty on Local Authorities (LA’s) to make independent arrangements available to parents of children with Special Educational Needs who were in dispute with their LA and/or the child’s school about how their child’s needs could be met. In addition to providing the service in County Durham, Unite has contracts to deliver SEN Mediation in Darlington, South Tynedale and Redcar and Cleveland.

Quality Standards
Unite is a member of the Civil Mediation Council and adheres to the European Code of Conduct for Mediators. The SEND mediation service is delivered in accordance with the requirements of the SEND Code of Practice (June 2014); which is the statutory guidance on the duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations.

Is SEN mediation suitable for me?
The flexibility of the process makes it suitable for dealing with a wide range of issues that could otherwise have to be taken to a SEN and Disability Tribunal hearing. It also has the added benefit of maintaining or restoring amicable, constructive working relationships between parents, carers, schools and the LA. When parties come to a joint meeting, over 85% of cases reach a full agreement on the presenting issues. Once an agreement has been reached, it becomes legally binding in the form of a "Memorandum of Agreement", however, the discussions that led up to it remain confidential. In cases that do go on to a different process, very often, the understanding reached during mediation makes the next step much easier.
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Case Study

This dispute involved the parents of a child, Ben, who has dyspraxia, dyslexia and Asperger’s syndrome, and the Local Authority (LA). The issues centred on Ben’s statement, which his parent’s said did not fully reflect Ben’s needs.

The mediator first rang the parties to introduce herself and to confirm the arrangements for meeting everyone. Ben’s parents asked whether their barrister could be present during the mediation sessions. The mediator ensured that they understood that mediation is not an adversarial process and therefore the barrister would be there in a purely advisory role. With the LA Officer’s consent, the mediator agreed to the parent’s request.

In the separate meetings with each party, everyone expressed their frustration at what they perceived to be an unwillingness to listen by the other. As a result, communication and trust had broken down between them. Ben’s parents explained that his statement had been reviewed a few months ago, but they felt that the LA Officer had not really taken on board the full extent of Ben’s disabilities and so did not fully reflect his needs. The LA Officer said that he wanted the statement to be right for Ben and he had spent a lot of time trying to get the details right. He hoped that meeting with Ben’s parents would help him to understand what he had missed.

The joint meeting started with the mediator explaining the ‘ground rules’ of mediation, including confidentiality. At this point, the family’s barrister said that he thought this could leave him unable to do his job should the family wish to go to a tribunal. The mediator explained that it was important that parties enter into mediation in a spirit of trust in one another and with the intention of reaching an agreement. Everyone discussed this and all agreed to “go with the flow”, on the understanding that if anyone still had any concerns about this, the meeting could be paused to allow people to decide whether they wished to continue. This was reassuring not only to the barrister, but also to the LA Officer, who had been concerned about saying something that could place him and the LA in a vulnerable position should things have to go any further.

By the end of the day, a full agreement that both parties were happy with had been reached. The parties said that mediation had helped them to clarify the issues by “separating the people from the problem” and they now felt that their working relationship would be better and they could begin to re-establish trust.

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