

ADDITIONAL SUPPORT NEEDS (ASN) MEDIATION SERVICE PROVIDERS SCOTTISH QUALITY STANDARDS

INTRODUCTION

The Quality Standards in this document form a minimum baseline for service delivery of ASN Mediation Service Providers in Scotland. It is essential that all independent ASN Mediation Service Providers and mediators operate at an appropriate level of competence. Independent mediation services can be monitored and evaluated according to these Standards by service users, service purchasers and government bodies.

The following Quality Standards meet the requirements defined in the Scottish Government document, *Supporting Children's Learning The Code of Practice 2010*, which guides schools, local authorities and parents in the functions under the Education (Additional Support for Learning) (Scotland) Acts 2004/2009 (ASL Acts) regarding mediation services and provision (with particular reference to Chapter 8). The Quality Standards are fully compatible with the recommendations outlined in Chapter 8.

THE LEGAL CONTEXT

Education (Additional Support for Learning) (Scotland) Acts 2004/2009

Section 15 of the ASL Acts introduces the provision for mediation which is seen in this context as *'a process in which a mediator, who is an impartial third party, facilitates the resolution of disputes by promoting the participants' voluntary agreement to a solution'*.

This section of the Acts places a duty on Education Authorities to ensure that parents/carers and young people who with additional support needs have access, at no cost to them, to independent mediation services.

The aim in introducing mediation provision is to ease the resolution of disputes, avoiding the breakdown of the relationship between parents/carers or young people and the school or Education Authority.

Although there is no intention on the Scottish Government's part to be prescriptive about what sort of mediation should be provided, there is a duty being placed on Education Authorities to ensure that a service is available which provides access to independent mediators who are *'autonomous from decision making structures in the education authority and are independent from those involved in the identification or provision for those with additional support needs'*. Section 15(2) has been amended to state that *Mediation services are independent...if the person providing the services has no involvement in the exercise by or on behalf of the authority of their functions relating to education or any of their other functions.'*

Chapter 8 in the Code of Practice clarifies: *'the local authority cannot choose to offer as mediators local authority employees or anyone else involved in conducting any other work on behalf of the authority.'*

QUALITY STANDARDS

Mediation is a process in which disputing parties seek to resolve their differences with the assistance of a trained mediator acting as an impartial third party. Mediation is voluntary and aims to offer the disputing parties the opportunity to be fully heard, to hear each other's perspectives and to decide how to resolve their dispute themselves.

Understanding of mediation

Independent ASN Mediation Services will ensure that parties entering into mediation understand:

The purpose and procedures of the mediation

The roles of the parties and the mediator

Any fee arrangements

The obligation of confidentiality

Voluntary participation and self-determination

Independent ASN Mediation Services will recognise that mediation is based on the principle of voluntary participation and un-coerced self-determination by the parties. Mediation services have a duty to explain voluntary participation to participants and to fully inform them about the principles of mediation and how it differs from other avenues of dispute resolution services which may be and are available.

Impartiality, independence and neutrality

ASN Mediation Services will remain impartial, independent and neutral. If a service becomes aware of any reason, which may diminish its impartiality, independence or neutrality, they shall disclose this to the parties at the earliest opportunity and withdraw from the mediation.

ASN Mediation Services must be independent of all the participants and must not have any personal interest in the outcome of the mediation. ASN Mediation Services and mediators have a commitment to the people involved and the mediation process, and they will not allow pressure or influence from others to compromise their independence.

Conflict of Interest

Independent ASN Mediation Services will disclose all actual and potential conflicts of interest known to the service whether before or during a mediation and shall withdraw from the mediation case.

Competence

Independent ASN Mediation Services will be responsible for undertaking to supply to their mediators, sufficient training, supervision and Continuing Professional Development (CPD) to maintain the standard of mediation delivery.

Independent ASN Mediation Services will have a requirement that all mediators can demonstrate successful, completed and recognised initial mediation training.

Services will have a requirement that all mediators undertake a minimum of 12 hours per year CPD, regardless of case work.'

Confidentiality

Confidentiality in mediation is important to encourage all participants to speak truthfully and candidly, and to enable a full exploration of issues in dispute. Unless compelled by law, independent ASN Mediation Services shall not disclose any of the information given during the mediation process.

If any information is requested by the ASN tribunal regarding parties' involvement in the mediation process, the ASN Mediation Service shall only indicate whether an agreement was reached or not.

Independent ASN Mediation Services will have a clear policy on confidentiality available to clients and referrers and covering circumstances where confidentiality cannot be guaranteed (eg serious crime, child abuse, harm to clients).

Information Provision

All information provided by independent ASN Mediation Services will be accurate, up to date and freely available.

Independent ASN Mediation Services will always treat people with respect and without discrimination.

Complaints and Professional Indemnity Insurance

Independent ASN Mediation Services will provide information about the process for responding to any complaint made about conduct or service provision, and about any professional indemnity insurance cover they have.

ASN mediator recruitment and support

Independent ASN Mediation Services will provide mediators with a comprehensive written job description and clear terms and conditions of employment.

They will provide mediators with an induction process that familiarises mediators with the organisation, its policies and methods of operating, and identifies initial training needs.

Independent ASN Mediation Services will provide mediators with a system of support and supervision with the opportunity to reflect on individual practice and continuing professional development requirements.

They will provide mediators with adequate personal and health/safety training. They will also ensure that all mediators have Enhanced Disclosure Scotland checks.

Referrals policy and case management system

Independent ASN Mediation Services will follow a clear referral system. Each referral to a mediation service is assessed on an individual and on-going basis.

Independent ASN Mediation Services will have in place a clear case management system.

Monitoring and evaluation

Independent ASN Mediation Services will have in place systems to monitor and evaluate service provision and feedback from service users on a regular basis.

Access to records

Independent ASN Mediation Services will have a clear policy on access to records available to clients and referrers and will comply with the Data Protection Acts.

Produced by Additional Support Needs Mediation Consultancy

April 2007

Updated June 2010

References:

Education (Additional Support for Learning) (Scotland) Acts 2004/2009 and Supporting Children's Learning Code of Practice 2010 (this replaces the original Code published in 2005):

Both available to download from Learning and Teaching Scotland:

www.ltscotland.org.uk

(Go to Additional Support for Learning Act)

Scottish Mediation Network's Guidelines on the Practice of Mediation

Available to download from:

www.scottishmediation.org.uk