

# Understanding Special Educational Needs and Disability (SEND) Disagreement Resolution and Mediation.

For professionals across education, health, and social care.

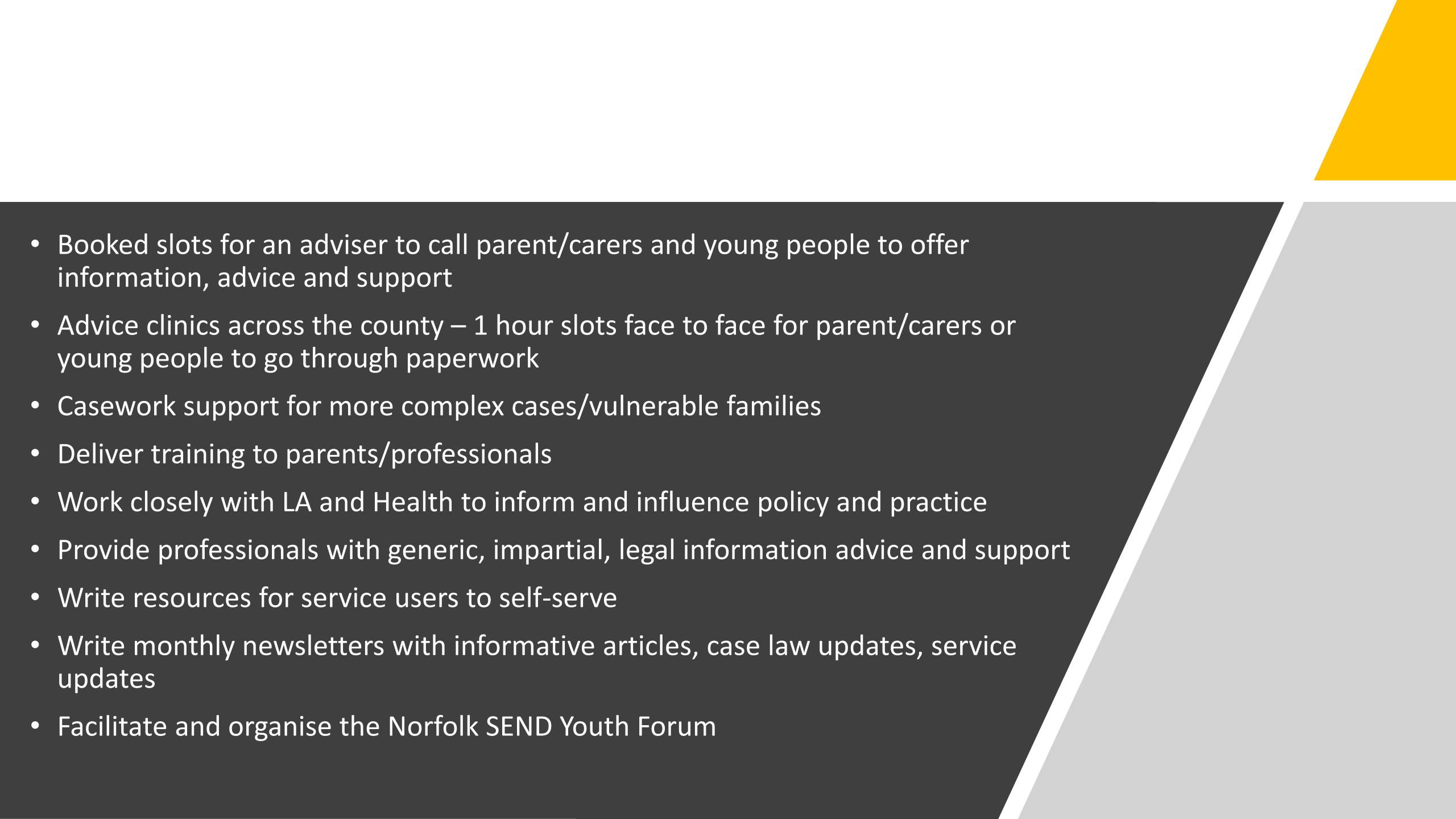
Presented by Niamh Keane Manager Norfolk SENDIASS  
and Susanna Diegel, Manager KIDS SEND Mediation

# What will be covered in today's training ...

- Who are SENDIASS and what do they do?
- Who are KIDS SEND Mediation Service and what do they do?
- What is Disagreement Resolution?
- What is the difference between Disagreement Resolution & Mediation?
- When must mediation be considered?
- What is the role of the professional at tribunal and mediation?
- Key skills for professionals at mediation.

Who are Norfolk  
SENDIASS and  
what do they do?

- A free, confidential, impartial and arms-length statutory service.
- Funded by Norfolk County Council and Norfolk and Waveney Integrated Care Board
- Overseen by the national Information, Advice and Support Service Network who sit within the Council for Disabled Children.
- Providing information, advice and support related to education and health and social care where it impacts on education across all of Norfolk to children and young people that have SEND and their parent/carers.
- Advisers are independently trained in SEND law and complete all 3 levels of IPSEA legal training.

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- Booked slots for an adviser to call parent/carers and young people to offer information, advice and support
  - Advice clinics across the county – 1 hour slots face to face for parent/carers or young people to go through paperwork
  - Casework support for more complex cases/vulnerable families
  - Deliver training to parents/professionals
  - Work closely with LA and Health to inform and influence policy and practice
  - Provide professionals with generic, impartial, legal information advice and support
  - Write resources for service users to self-serve
  - Write monthly newsletters with informative articles, case law updates, service updates
  - Facilitate and organise the Norfolk SEND Youth Forum

# What we don't do

Make promises.

Give advice or support with matters relating to benefits such as DLA.

Give our opinion e.g., telling a parent/carer which school is suitable for their child or young person.

Favor either side.

Have influence over the outcome of any decision.

Who are KIDS and  
what do they do?

For more than 50 years, KIDS has provided a wide range of services nationally for children and young people with SEND and their families.

Our services cover three main areas: information, advice & family support; play and social; and learning and development.

In the last year we delivered almost 225,000 hours of support.





What is  
Disagreement  
Resolution?

What is  
Mediation?

# SEND Disagreement Resolution

(see CoP 11.6 onwards)

Disagreement Resolution (DR) is for all SEND related disagreements:

- DR can be requested at any time (even when a tribunal appeal has already been lodged).
- The parent/carer and young person and professionals involved with the CYP can make a referral e.g. education providers, LA, health and social care.
- DR is **voluntary for all involved** and has no statutory timelines.

Examples: dispute between school and parents about SEND provision being made; how education duties are carried out; issues having led to complaints etc.

# SEND Mediation

(see CoP 11.3 onwards)

- The Mediation arrangements relate to decisions about the EHCP process.
- When the local authority makes a decision which can be appealed to the Tribunal, it must tell the parent or young person of their right to mediation and that the PYP must contact a mediation adviser before registering an appeal with the Tribunal.
- Mediation is compulsory for the LA to attend.
- Mediation can extend the time in which to lodge an appeal and the option to lodge an appeal remains open to the parent/carer or young person throughout the mediation process.




## **Disagreement Resolution and Mediation are:**

**Non-adversarial**, allowing meaningful discussions to take place in a structured 2-hour meeting.

**Person-centred**, allowing everybody to have their say in a calm, informal but focused environment.

**Focused** on the CYP's needs, the present and the future.

**Facilitated by an impartial accredited mediator**, ensuring that everybody's views are heard and respected, issues are fully explored and understood, options considered and solutions agreed that the parties have decided.



## **Those involved in mediation and DR**

### **Key participants:**

Parents / carers, the child or young person (especially a YP over 16 and able to take part in their mediation); the Local Authority; the nursery, school or college. And of course, the mediator.

- In mediation the “parties” are usually the parent/carer or young person and the LA.
- In DR the “parties” are often the parent/carer or young person and the Education Provider.

### **Others taking part:**

Professionals involved with the child or young person including Social or Health Care; parental and young person supporters (family or friends, advocates, SENDIASS); signers, interpreters.

When must  
Mediation be  
considered?

## Mediation must be considered when parent/carers or young people disagree with:

- A decision by the Local Authority not to carry out an EHC needs assessment or a re-assessment.
- A decision by the Local Authority that it is not necessary to not issue an EHC plan following an assessment.
- A decision not to amend an EHC plan.
- A decision made by the Local Authority to cease to maintain an EHC plan.
- The contents of a final EHC plan (B, F and/or I) .

If you wish to appeal only section I of a final EHC plan you do not have regard to mediation, although you can still go to mediation if you want.

BREAK





Are Disagreement  
Resolution and  
Mediation  
effective?

In short ... **YES!**

DR and mediation can help professionals, parent/carers, or young people reach mutual understanding and agreements.

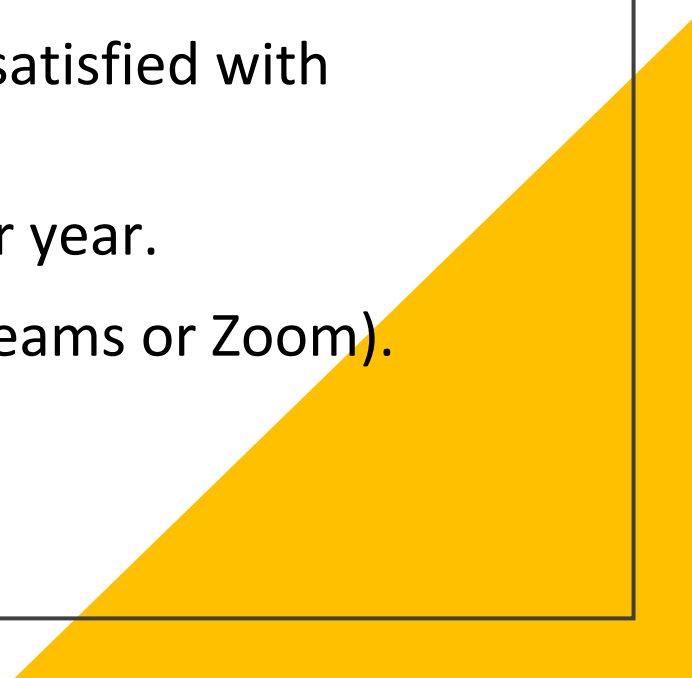
Agreements and solutions can be “wider” than what the tribunal can rule.

Mediation and DR can help improve and repair communication and relationships.

DR and Mediation may not always work fully: sometimes solutions can't be agreed, and / or the relationship has broken down too much to repair - but they can be the first step in improving communication and relationships.



The impartial mediator ensures that the child or young person is in the center of discussions and decisions are made in their best interest regardless of what problems have gone before.

## KIDS - key outcomes

- Around **85%** of mediations / DR meetings result in full and partial agreements (varies depending on LA).
  - Over **99%** of agreements are adhered to.
  - **97%** of mediation participants were satisfied or highly satisfied with KIDS SEND Mediation service over the last 12 months.
  - KIDS deliver around **1000** mediations / DR meetings per year.
  - **98%** of mediation meetings are conducted remotely (Teams or Zoom).
  - **90%** of mediation meetings take 2 hours or less
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Key considerations  
for professionals

... at Tribunal,  
Mediation and DR

- 
- Gather information and make conclusions based on that information.
  - Act as an expert professional, not a “witness” for either “side”.
  - Identify the needs of the child and what is in their best interest.
  - Give full, precise, factual, objective and honest information.
  - Remain impartial and fair.
  - Answer question in your area of expertise: be clear on what your knowledge is and is not.
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- Be a good, active listener
- Be an effective communicator
- Enable parents/carers to be active during the meeting
- Be able to pick up on non-verbal communication – such as body language
- Support parents/carers to ensure they understand the information
- Ability to summarise information in an accessible way
- Be able to ask questions to clarify if needed
- Be reassuring
- Have empathy



Key skills for  
professionals

...at Mediation  
and DR





# Group Discussion – Handling difficult conversations



- Self- reflection – how do I feel in these situations? May this affect how I react?
- My experience of difficult conversations – private and professional
- How do I prepare?
- How do I ensure a good start to the conversation?
- How do I handle challenges and objections?
- How do I close a difficult conversation effectively?

## Preparation for a difficult discussion:

- Why are we having this conversation / meeting?
- Do the others share this reason? (Disagreeing about the disagreement)
- Be aware of difference in perceptual positions (try and see things from a different perspective).
- Who is “chairing” / keeping focus?
- Who should be involved / attend and how do I engage them from the start?
- Should there be an agenda and / or a record be kept?

## **A good start – mutual benefits statement:**

- State your reasons and purpose for being there.
- Acknowledge common ground (the CYP) and differences.
- Propose the agenda and timescales.
- Deal with objections on the spot.
- Seek agreement to proceed.

## At the meeting – “whole body” listening:

- Give every speaker your full attention.
- Demonstrate this through body language (not leafing through paperwork, drumming the table...).
- Summarise what you have heard: content and feelings.
- Ask questions to clarify.
- Demonstrate your understanding before setting out your view.

## Building rapport:

Posture

Language

Voice

Breathing

Facial  
Expression

Movements

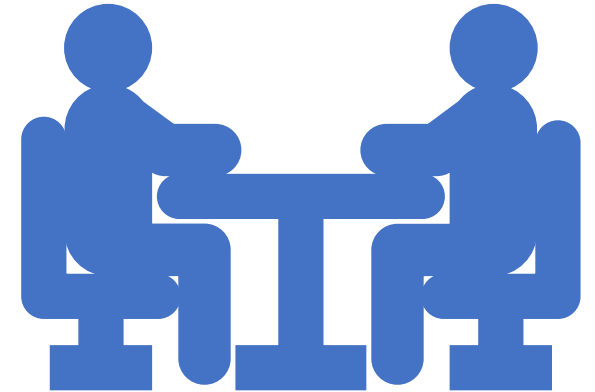
## Handling objections:

- Encourage people to voice their differences (otherwise agreements will not work).
- Check with the “quiet” ones.
- Acknowledge objections and ask what could be done to help resolve them.
- Show empathy – but remain clear about what can and what can not be agreed.
- Repeat “joint” purpose of conversation (focus).
- Be positive: highlight progress and ask for agreement to move on.



## **Close effectively:**

- Thank people for their time and contributions
- Summarise discussions and progress made
- Go through agreed actions – checking for mutual understanding of agreements
- Ensure actions are SMART (specific, measurable, achievable, realistic, timed)
- Ensure clear future communication should something not go to plan
- Ensure actions you have agreed are done promptly



## Top Tips – attending Mediation and DR

- Be prepared to **explain** the LA/CCG/Education provider decision in detail.
- Plan **what you can bring to the mediation** within broad parameters – but keep an open mind.
- Stay **aware of your own feelings**.
- Use **neutral** language.
- **Be curious**: ask open questions, think creatively, and be flexible in considering solutions.  
*“Can you tell me more about that?” “How would.....work for you?”*
- Be positive and encouraging, not defensive – retain focus on **shared goals**.
- Listen and **show that you have heard and understood**.
- **Show empathy** even if you do not agree with others’ viewpoints and acknowledge differences.





**Any questions or reflections?**