

CMC and CoM Response to SEND Mediator Standards Consultation

An introduction:

The Civil Mediation Council (CMC) and the College of Mediators (COM), supported by the Department for Education (DfE), conducted a joint consultation on proposals for reforming the SEND Mediator Standards (SMS) in 2024.

The standards were under review by the SEND Mediation Panel, which is a formal working group consisting of SEND Mediation Providers and jointly chaired by the CMC and COM.

The consultation offered opportunity to comment on the SEND Mediation Process, Stakeholder Engagement, SEND Mediator Training, Professional Supported Practice, SEND Mediator Assessment, and Continuous Profession Development (CPD).

The consultation focused on measures to strengthen the SEND Mediator Standards which would develop the profession and contribute to the outcomes the DfE 'Improvement Plan' aimed to achieve, as part of 'The Change Program'.

The consultation was made available to Mediators (SEND and otherwise) by the CMC and CoM and the information was disseminated to a range of stakeholders, including the Interdisciplinary Steering Group who were asked to cascade to their networks, parent/carer groups, FLARE, KIDS, Council for Disabled Children, representatives of Local Authorities, Integrated Care Boards, the Association of Colleges, SENCO networks, amongst others.

A summary respondent type:

Both FLARE and KIDS provided invaluable feedback direct from children and young people which has allowed the CMC and the COM to consider additional engagement support for those stakeholders.

We are pleased to report 38.67% of respondents were parents, carers, young people, or from an independent organisation supporting them. This is testament to the approach we adopted in ensuring the people at the centre of this consultation were able to contribute to the standards review.

We also received 32.86% of responses from SEND Mediators, 14.29% from professionals in education with a role in SEND, 10.00% from SEND Mediation Providers (SMP), with additional responses from Local Authorities, lawyers, advocates and others wishing to present a view.

Some respondents may belong to one or more categories.

A categorised summary of responses:

- Supporting Children and young people in accessing and participating in SEND Mediation.
- Local Authorities (LA) sending a decision maker to a mediated session.
- The need to increase the training requirements for SEND Mediators to ensure they are suitably knowledgeable in SEND.
- Governance and monitoring of SMP.
- Robust pre-mediation session preparation work with families and the LA.
- Increase in time allocated to a mediated session.

The majority of responses provided strong support for the proposed changes, including the increased rigour of the training process, the formalised role of supervision/reflective practice and enhanced requirements around applicants' knowledge of SEND law.

The SEND Panel extends grateful thanks to all those that contributed to the consultation. The panel considered all feedback and has amended aspects of the standards document in light of the suggestions made.

What decisions have been taken based on the consultation responses:

1. What have we done (CMC and COM):
 - i. New standards introduced:
 - a. A more robust period of practice after training and before registration which is overseen by a mentor / PPC
 - b. Use of a Personal Development Plan which will need to be evidenced when mediators apply to be on the register
 - c. A more thorough application process to go on to the Register with applicants having to complete:
 - a written test to examine knowledge of the legal context
 - write ups of cases they have conducted
 - (Following consultation, the SEND Panel have made changes to the standards, including to ensure that training and assessment incorporates a broader range of issues in dispute, and that mentors / PPCs have a suitable level of experience.)
 - ii. More detailed guidance for SEND Mediation Providers regarding expectations about how the service should be delivered.
 - This comes under 4 headings:
 1. Model of Service Delivery
 2. Governance
 3. Evaluation and Development
 4. Access and Support for Service Users
 - (Changes made following consultation include increasing the minimum time allocated to a SEND mediation and further clarification on the pre-mediation work that should be carried out).
 - iii. Work has started on developing guidance for mediators and SMPs to support children and young person's participation in mediation, to help ensure their voices are meaningfully heard during the mediation process. This will incorporate the feedback gratefully received from young people as part of the consultation.
2. What have we presented to the DfE to consider:
 - The SEND Panel have presented several recommendations to the DfE, focusing on ways of strengthening the SEND mediation process. These proposals aim to strengthen accountability and ensure parents and young people have access to quality, effective SEND mediation in all parts of England. As part of this, the SEND Panel have made suggestions in relation to local authority processes and recommended:
 - that the DfE liaise with LAs to consider how they can meet their statutory duty by ensuring a decision maker attends mediation within all LAs.
 - that the DfE liaise with LAs to consider how they will meet their statutory duty to arrange mediation within 30-days from referral from the SMP
 - that the DfE liaise with LAs to consider how they can confirm mediation dates as soon as possible, and within 5-working days where possible.
 - that the DfE ensures data reporting reflects the effectiveness of mediation, so a national picture can be obtained, and anomalies identified.