

Appendix 4

**London Borough of Barnet
Adult Social Services**

Mediation Procedure

April 2009

Freedom of Information Act Protective Marking Information	
Protective marking	NOT RESTRICTED
Suitable for publication scheme	Yes
Title and version	Mediation Procedure
Purpose	Managerial action
Relevant to	All Adult Social Services
Author	
Summary	Mediation procedure in Complaints
Department	Adult Social Services
Date last reviewed	March 2010

London Borough of Barnet Adult Social Services

Mediation Procedure

*resolving problems and providing remedies
(alternative dispute resolution and mediation)*

April 2009

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Introduction

1 Principles and purpose

- 1.1 It is one of the main principles of the Adult Social Services complaints procedure to provide an open, fair and prompt resolution of complaints within a procedure which is accessible, clear and easy to use for service users and carers, including seeking resolution through mediation and other means.
- 1.2 It is essential that at each stage of the procedure all staff remain open to the possibility of resolving the complaint by mediation and other means. These can include agreeing remedies with the complainant such as:
 - Providing an apology or an explanation
 - Re-assessment of the service user's needs
 - Practical action specific to the particular complainant
 - Providing a service
 - Considering appropriate remedies
 - Review procedure
- 1.3 Attempts at resolution should not be used to divert an eligible person from making a complaint under the statutory Adult Social Services, or corporate complaints procedure.

2 Methods of achieving resolution

- 2.1 Some methods of achieving resolution outside of or alongside the complaints process are:
 - A meeting between the complainant or his/her representative and the service manager
 - A meeting between the complainant or his/her representative and a more senior manager, usually with the attendance of the Adult Social Services Complaints and Representations Manager
 - Conciliation: a neutral third party tries to resolve the complaint working separately with both parties
 - Mediation: a neutral third party tries to resolve the complaint by bringing the parties together in a mediation meeting.

Mediation - Its aims and how it can work

3 Mediation

3.1 Mediation should be considered at all stages of the statutory complaints procedure and is:

- A process of resolution in which a neutral third party, the **mediator**, assists two or more parties in order to help them achieve an agreement, with tangible effects, on a matter of common interest, and
- A voluntary process which empowers those in dispute to reach a resolution they can live with.

3.2 The aim of mediation is to:

- Seek resolutions
- Facilitate discussion and agreement, and focus on the needs of the service user or carer
- Enable both sides to make their views known
- Empower those involved.

3.3 Mediation will only work if:

- Both parties agree a resolution is needed
- The process is voluntary
- Both parties see the mediator as neutral
- Any agreement reached satisfies both parties.

3.4 The mediator is not:

- An advocate i.e. the mediator does not take sides
- An 'Independent Person' – an Independent Person should be appointed to look after the interests of a vulnerable adult complainant when appropriate..

4 Procedure for mediation

4.1 Prior to mediation, a member of the complaints service will have agreed with the complainant and with relevant staff that a mediation meeting could be productive.

4.2 As a general rule the expectation is that a mediator will:

Before the meeting:

- Meet the complainant in order to identify his/her areas of concern and/or dissatisfaction
- Meet relevant staff in order to establish what has already occurred and what options may be available
- Read any relevant information on the complaint (and if considered necessary see the service user's file)

- Liaise with the Complaints and Representations Manager to arrange the mediation meeting
- Agree the terms of reference for the meeting with the complainant and relevant staff
- Be aware of, and consider the implications of, any confidential information that either party may share with them.

During the meeting:

- Confirm the terms of reference for the meeting
- Allow an opportunity for both the complainant and member(s) of staff to put their view
- Look at whether any compromise is available
- Agree with both parties any decisions that have been reached;
- If no agreement is reached advise both parties what other options are available.

After the meeting

- Write a short report and record any decisions made and agreed at the mediation meeting, and any other recommendations.

- 4.3 There may be occasions when it is not appropriate to follow the above guidance and the complaints service will discuss options with the mediator. For example, it may be necessary to contact the service user again after meeting the relevant staff in order to test out possible ways forward.
- 4.4 The mediator will be appointed by the Complaints and Representations Manager, who will take responsibility for overseeing and recording the process.