

Special Education Mediation in Scotland:

The Tartan Connection



Morag Steven, Common Ground Mediation
www.commongroundmediation.co.uk



Additional Support Needs (ASN) Mediation in Scotland:

The Tartan Connection

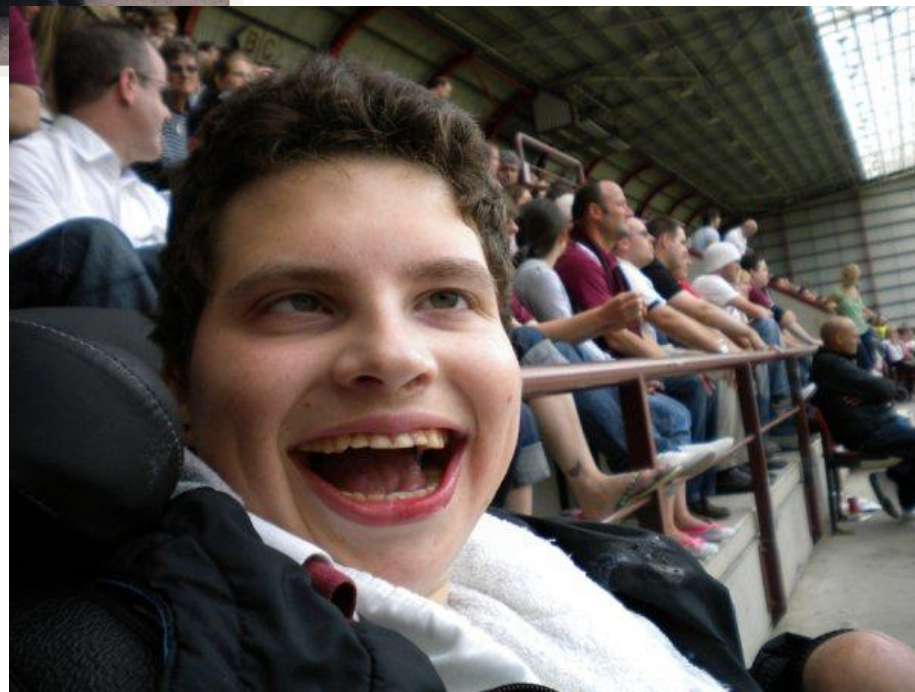


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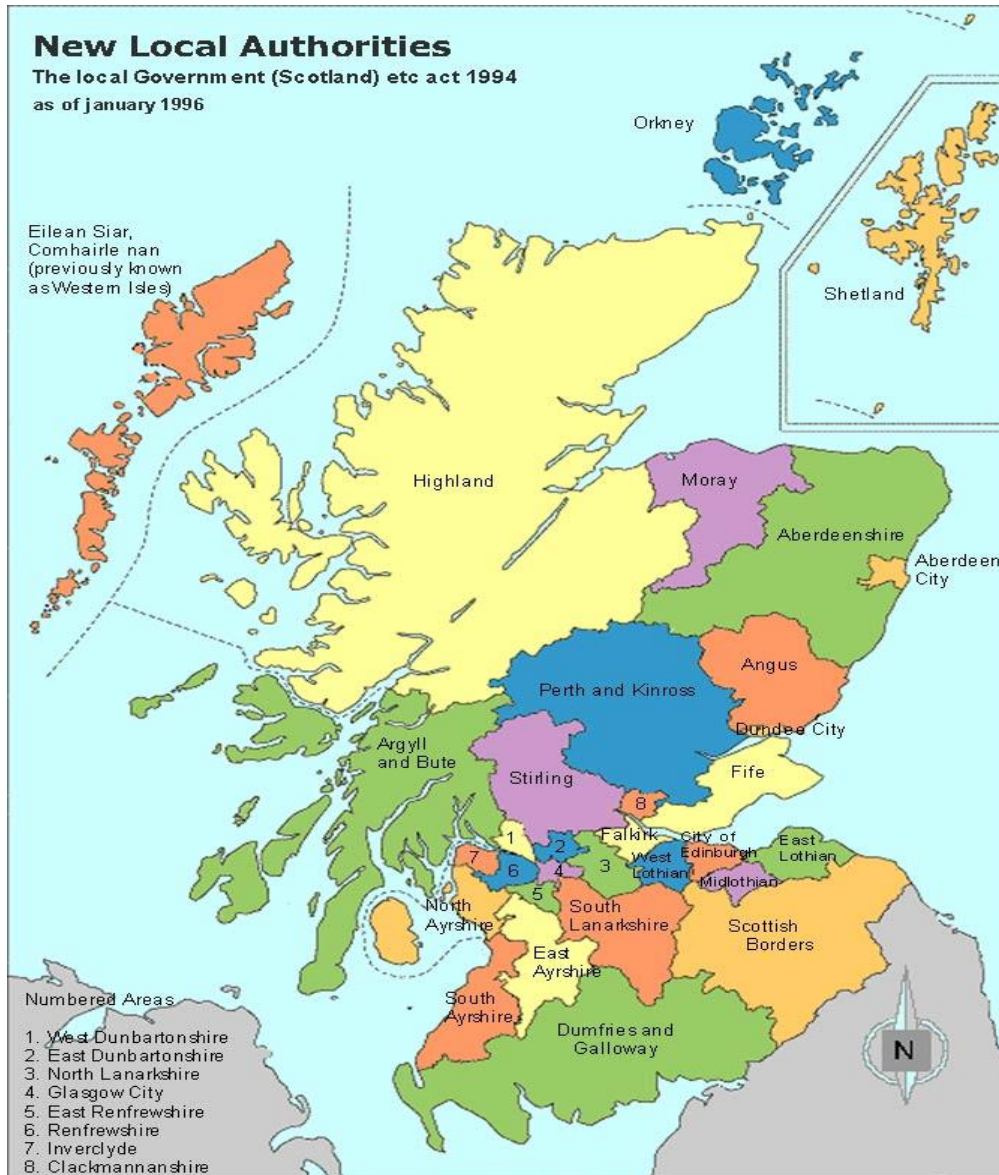
**Duncan Steven
1988 - 2010**



ASN Mediation in Scotland



ASN Mediation in Scotland



Population: 5.5 million (2015)

Area: 30,418 square miles

Population density: 181 per square mile

Political landscape



Legislation and policy:

- **Education (Scotland) Act 1980:** ‘adequate and efficient’
- **Standards in Scottish Schools etc Act 2000:**
presumption of mainstream education
- **Education (Additional Support for Learning) (Scotland) Act 2004 (amended 2009):** introduction of concept of Additional Support Needs; strengthened parental rights; introduced dispute resolution framework



The scope of Additional Support Needs: Broad themes



- Learning Environment



- Family Circumstances



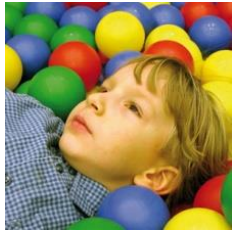
- Disability or Health Need



- Social and Emotional Factors



Legislation and policy:



- **Equality Act 2010:** unlawful to discriminate against a disabled person in education
- **Children and Young People (Scotland) Act 2014:** strengthens children's rights; introduction of 'Named Person' for every child



Legislation and policy:



'Making Scotland the best place in the world for our children and young people to grow up' Scottish Government 2012



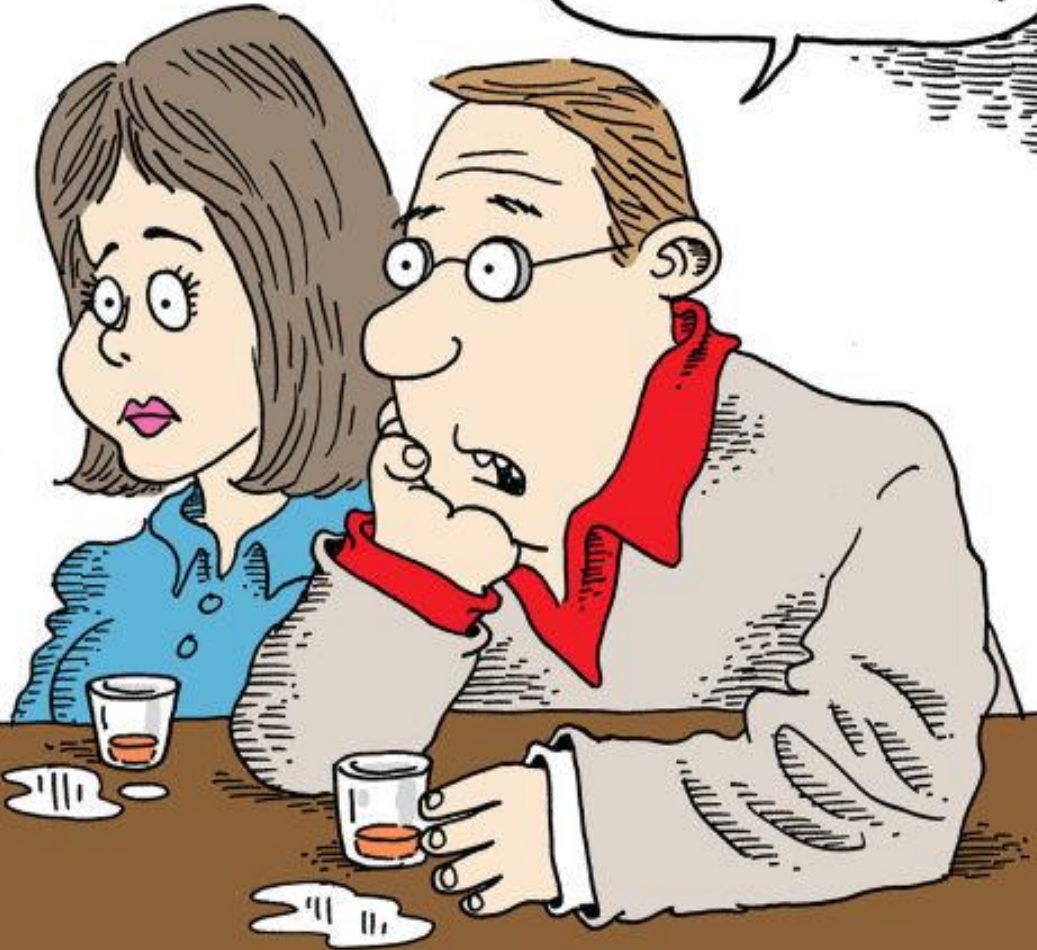
- **Getting It Right For Every Child (GIRFEC)**



- **Curriculum for Excellence**



IS IT HALF FULL
OR HALF CRAZY?



ASN Mediation in Scotland

- **Education authorities are required by law to have independent mediation services in place, free of charge for parents**
- **23 local education authorities have contracts with Resolve:ASL and Common Ground Mediation**
- **Referral numbers:**

2007-2008	25
2010-2011	55
2012-2013	86
2014-2015	135

ASN Mediation in Scotland

676,955 pupils in publicly funded schools

140,524 pupils identified as having additional support needs – about 20.8%

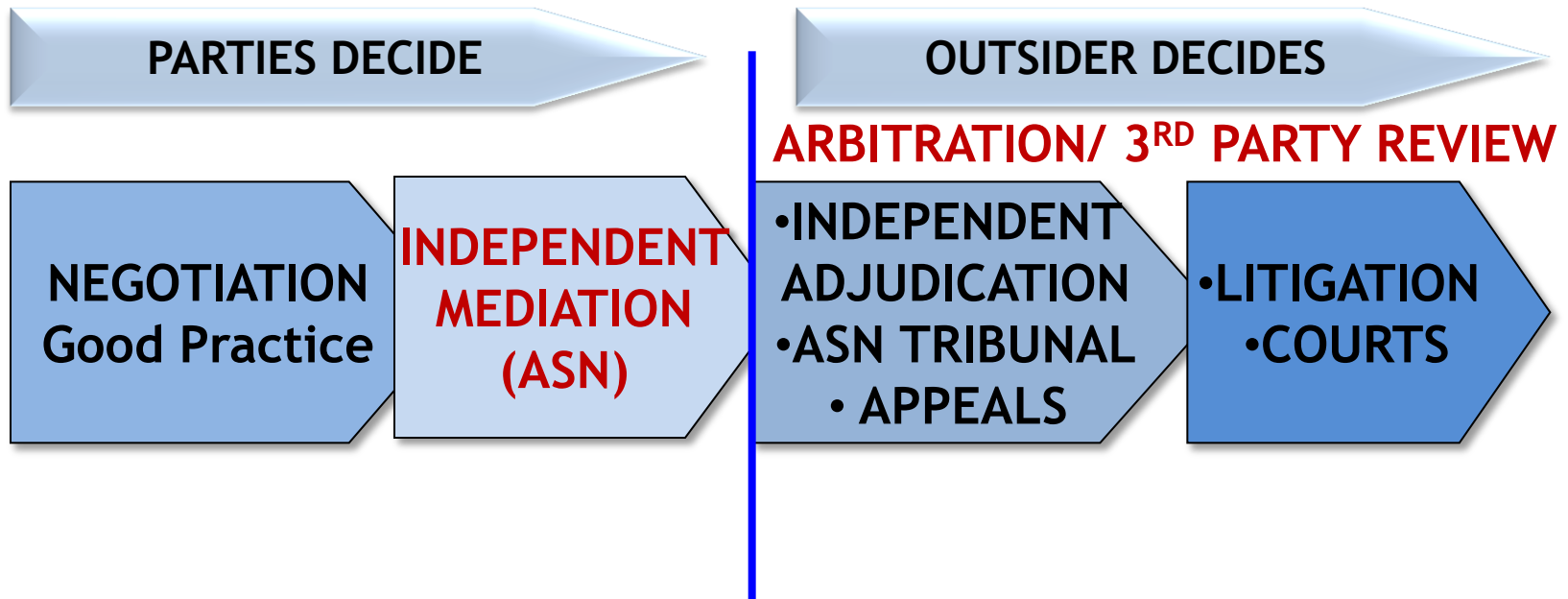
95% pupils with additional support needs learn within mainstream schools

62% pupils with additional support needs are boys, 38% are girls

£4.8bn annual spend on education – £555m of which is allocated to additional support for learning (11%)



Statutory Guidance: Framework for Resolving Disagreements



Education (Additional Support for Learning) (Scotland) Act 2004

Key Principles of ASN Mediation

Impartiality

Confidentiality

Voluntariness

Flexibility

Child-centred



Additional Support Needs Mediation

Stage 1

- Referral
- Intake meetings with disputants

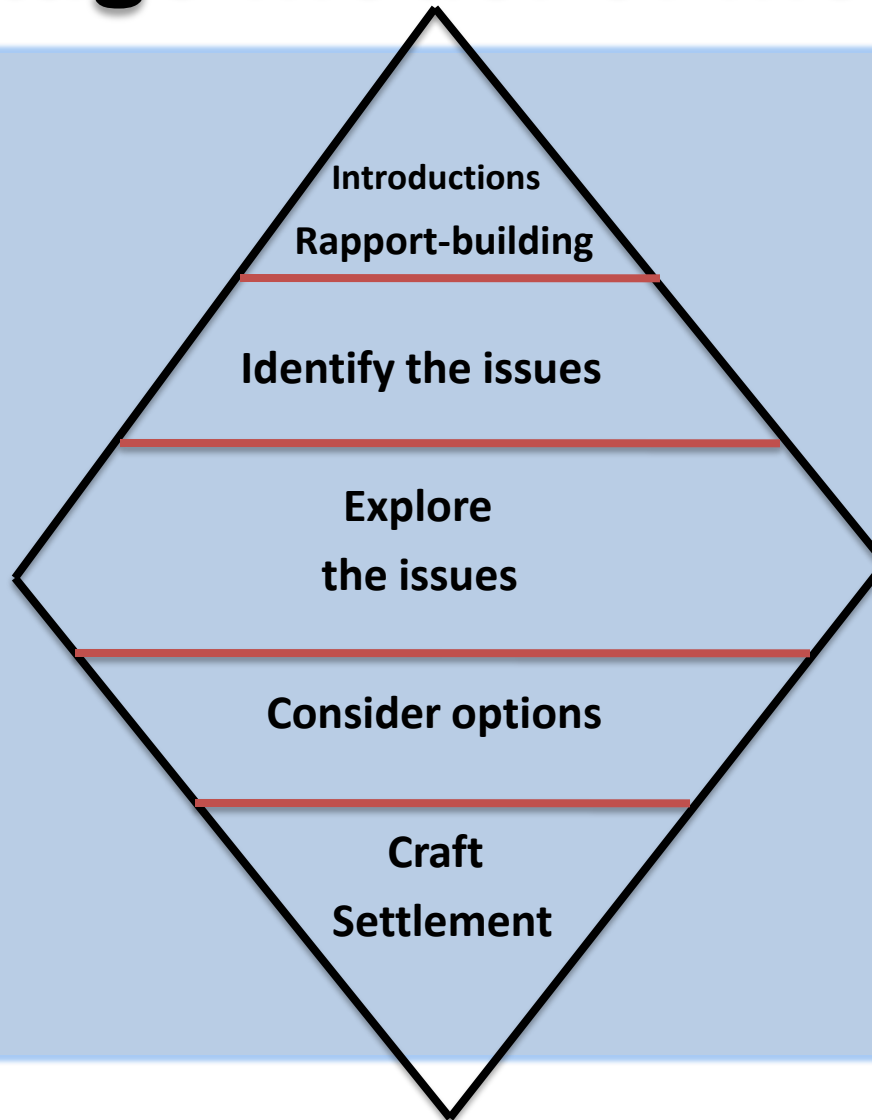
Stage 2

- Joint mediation meeting/s
- Flexible, based on 5 stage facilitative model

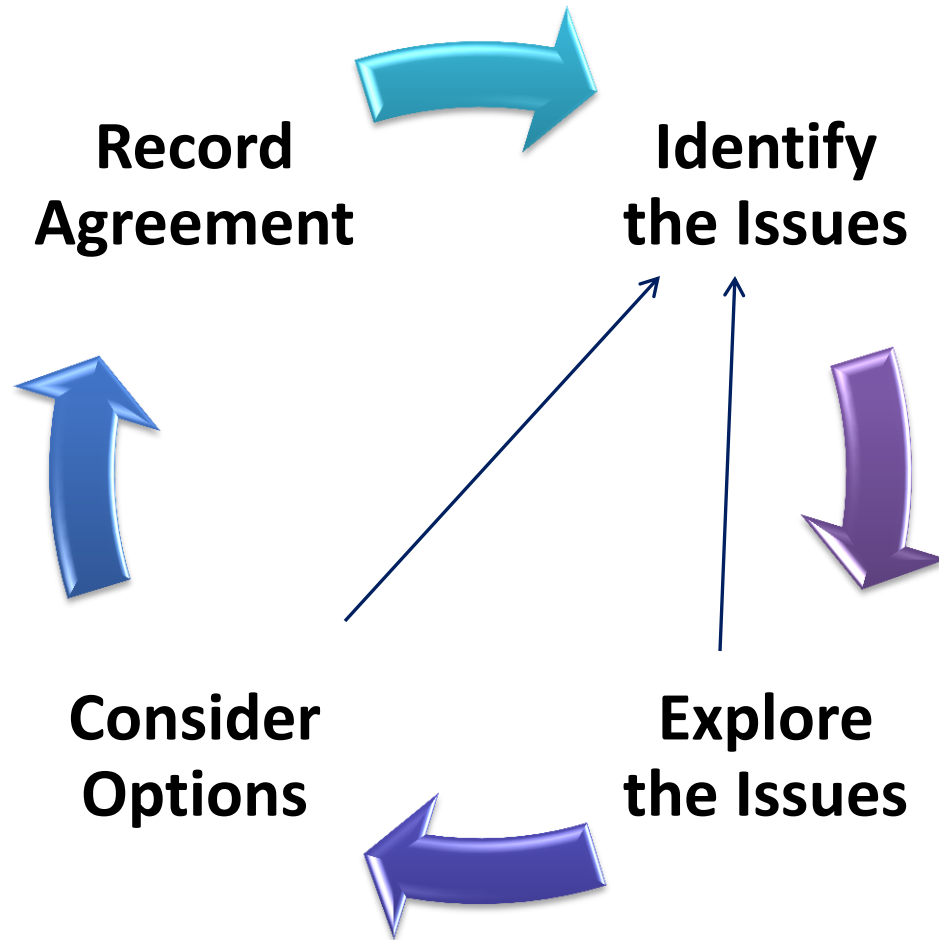
Stage 3

- Conclusion of involvement, closing letters
- Feedback to referrer

A 5 stage model of mediation



Reality of ASN Mediation



Additional Support Needs Mediation

What are the disputes about?

Parental
disagreement
with decision

Refusal of
parental
request

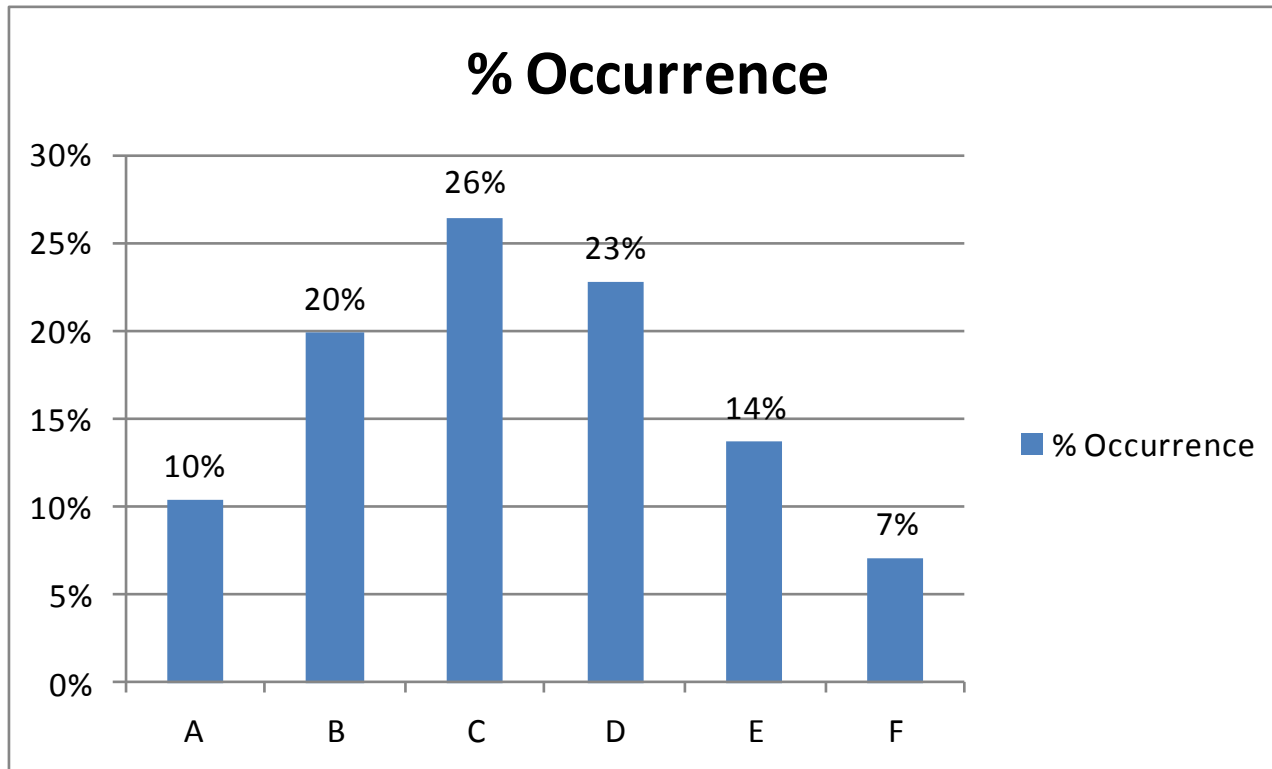
Discrepant
views of
child's needs

Interpersonal
difficulties

Issues out
with
education



Analysis of factors occurring in ASN disputes (2007-2012) 200 mediation cases



A: disagreement with decision

B: refusal of request

C: discrepant views

D: interpersonal

E: issues out with education

F: unknown

Mediating in a rights-based framework

‘Every declaration of rights implicitly recognizes that if rights genuinely existed, there would be no need to declare them.’ Ken Cloke

Implications for:

- Parents
- Children/students
- Educators
- Mediators

Involving children/students in ASN mediation



- **Children and Young People (Scotland) Act 2014**



- **UN Convention on the Rights of the Child:**

Article 12: ‘the views of children and young people must be considered and taken into account in all matters affecting them’



- **Scotland’s Commissioner for Children and Young People: www.sccyp.org.uk**

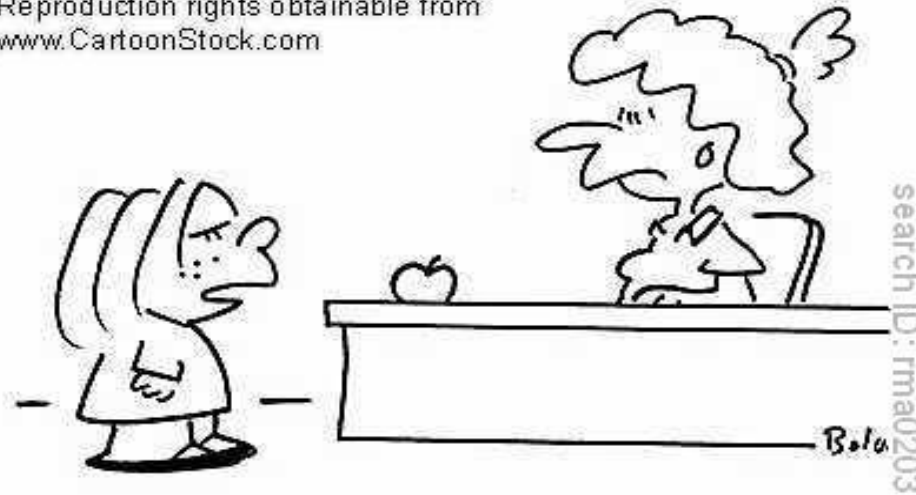


Involving children/students in ASN mediation

Questions to consider:

- 1) is this situation mediatable?**
- 2) what are the potential benefits of including the child/student in the mediation meeting?**
- 3) what are the potential challenges of including the child/student in the mediation meeting?**
- 4) what support may the child/student need to be able to fully participate?**

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"How do you know I have a learning disability?
— Maybe you have a *teaching* disability!"



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**I LOVE SUMMER IN
SCOTLAND**



**THIS YEAR IT WAS A
WEDNESDAY**

Scottish cuisine



is most based on a dare