



## GUIDANCE TO MEMBERS No 06/2018

### Case Conference Calls

#### *Purpose of this Guidance*

1. This guidance is to clarify the purpose of the pre-hearing case conference call and the procedures to be employed by the legal member.

#### *Terminology*

In this guidance note, references to “the 2018 Rules” are references to The First-tier Tribunal for Scotland Health and Education Rules of Procedure 2018. References to the Tribunal are to the Additional Support Needs jurisdiction of the Health and Education Chamber of the First-tier Tribunal for Scotland.

#### *Judicial case management*

2. The case conference call is a process of judicial case management which is employed by the legal member. Ordinary members are not allocated to the case until the hearing date has been fixed. Ordinary members are not involved in the case conference call, unless exceptional circumstances exist.

#### *Exceptional circumstances*

3. Where exceptional circumstances exist and the legal member forms the view that it is necessary to involve an ordinary member in the case conference call, a written request shall be made by the legal member to the Chamber President, setting out the reasons for this request. The Chamber President will consider and decide each request on its merits, taking account of the exceptional circumstances which exist.

#### *Fixing a date for the case conference call*

4. After the close of the case statement period and once the tribunal papers have been issued, the case officer will contact the legal member and parties (or their representatives) to agree a date and time for the case conference call, unless the legal member has instructed an earlier date for this.

5. Some legal members may wish to hold more than one case conference call. When a further case conference call is to be fixed, the date and time for this shall be agreed at the case conference call by the legal member and the parties (or their representatives). The legal member shall then inform the case officer within 24 hours of the outcome of each case conference call.
6. The legal member is paid a half day fee for their pre-hearing judicial case management, which includes the case conference call(s), irrespective of the number of case conference calls held.
7. Where a member is involved in a case conference call, the member is paid a half day fee, irrespective of the number of case conference calls held.

*Attendance at the case conference call*

8. Representatives may have their party present during the call for the purpose of taking instructions, but communication will be restricted to one person for each party.

*Telephone service*

9. The case conference call is conducted using the *BT Meet Me* dial-in process. The case officer will issue the legal member and parties with the dial-in details prior to the date of the case conference call.

*Recording the case conference call*

10. Legal members should record the case conference call using the following instructions:

- Dial into your conference number and enter your chair passcode
- Press \*8 to initiate the recording
- You will be asked to confirm that you wish the recording to start. Select 'yes' by pressing \*1 and the recording will start
- To end the recording press \*8 again or hang up by pressing ##. This will eject all from the meeting and stop the recording.

11. A library of case conference call recordings is maintained by the Chamber President for training purposes. Recordings are kept for 30 days. Any member or legal member who wishes to access the library for the purpose of their continuing professional development can contact the Member Liaison Officer.

*Matters to be addressed*

12. The matters which the case conference call may address include those specified in the draft checklist at **Appendix A**.

*Joint minutes of agreement*

13. Where both parties are legally represented, the legal member is encouraged to direct that a joint minute of agreed facts be lodged in advance of the hearing. This will focus the minds of the parties on the matters which remain in dispute.
14. This will assist the tribunal in their pre-hearing preparations when deciding how the hearing should be conducted and what enquiries the tribunal may wish to make.

*Interlocutors*

*(An order made by a tribunal or legal member containing a decision)*


15. Where interlocutors are issued, these should be completed by the legal member on the day of the case conference call and issued to the case officer, within 24 hours, for onward transmission to the parties. Interlocutors will then be placed in the 'T' section of the bundle of productions.

*Case conference call note*

16. A brief note on the outcome of the case conference call should be prepared by the legal member. A template for this purpose is set out at **Appendix B**. This is particularly helpful where there are no interlocutors arising from the case conference call. The note should be sent to the case officer, within 24 hours of the case conference call, for transmission to parties and the tribunal members in advance of the hearing. This will then be placed in the 'T' section of the bundle of productions.

**May Dunsmuir**  
**President**  
**January 2018**

### Case conference call checklist

<b>Subject matter</b>	
<b>Introduction</b>	
Identify who has joined the case conference call.	
Questions on competency.	
Preliminary and procedural matters.	
<b>Child/Young Person</b>	
Arrangements for hearing from the child or young person (if appropriate).	
Direct that an independent advocate obtain the views of the child or young person (if necessary), see <i>PGN 03 2018 Independent advocacy</i> .	
Address communication barriers, e.g. the need for translation, BSL, talking mats, etc.	
<b>Witnesses</b>	
Who will lead in questioning the witnesses (in practice, this will ordinarily be the education authority/responsible body)?	
The order in which witnesses will be heard.	
The estimated time at which witnesses should be called to attend the hearing venue.	
Whether evidence may be taken by telephone or other means at the hearing <sup>1</sup> . Evidence by video link can only be heard using secure SCTS systems, which excludes the use of Skype and similar programmes.	
Direct that a written summary/biography of witnesses be lodged and set the timescale for this, setting out the witnesses' credentials/qualifications.	
Ensure that no party, representative or witness has any child care or other commitments that the tribunal should be aware of which will impact on the hearing.	
Requests for additional witnesses. <sup>2</sup>	
<b>Joint minutes</b>	
Direct a joint minute on evidence which may be agreed in writing, which reduces the need for oral evidence (see paragraph 13 <i>Joint minutes of agreement</i> ).	
Where a joint minute is directed, the date to lodge with the Tribunal and parties.	

<sup>1</sup> The 2018 Rules, rule 40 (3) for references and rule 86 (3) for claims.

<sup>2</sup> The 2018 Rules, rule 33(6) limits the number of witnesses to two in references and Rule 85(2) limits the number of witnesses to five in claims.

<b>Late evidence</b>	
Requests for admissibility of late evidence and the reasons for this; and the views of the other party.	
<b>Supporters</b>	
Does either party have a supporter? <sup>3</sup>	
<b>Documentary evidence</b>	
Review of productions and any absent evidence.	
Directions for reports etc. to be lodged and the date to lodge with the Tribunal.	
<b>Authorities</b>	
Specify the date when authorities are to be lodged, confirming three copies to be lodged for the Tribunal members and one for the other party.	
<b>Written submissions</b>	
Specify if written submissions are to be lodged, confirming when draft submissions are to be exchanged between the parties and the date when final submissions will be lodged with the Tribunal.	
<b>Duration, date and time for the hearing and any further case conference call</b>	
Explore how long the hearing is likely to last <sup>4</sup> .	
Fix a date and time for a further case conference call where one is necessary.	
Fix a date or dates for the hearing, confirming the start time (ordinarily 10.00 am) and end time (ordinarily around 4.00pm).	

<sup>3</sup> The 2018 Rules, rule 38 (7)(c) for references and rule 84(7)(c) for claims.

<sup>4</sup> CSP hearings are usually fixed for a day and placing requests for 2 days, unless there are particular complexities in the case. Claims can be fixed for up to 2 days.

Health and Education Chamber  
First-tier Tribunal for Scotland



Additional Support Needs

## Case Conference Call Note

Reference No: **FTS/HEC/AX/XX/XXXX**

Appellant/Claimant: \*\* (for \*\*name of child\*\*)

Respondent/Responsible Body: \*\* (“the education authority”)

Date of case conference call: \*\*

The following parties or their representatives attended at a case conference call on the above date/s:

1. \*\*
2. \*\*

The following matters were discussed and agreed:

1. \*\*
2. \*\*

I thereafter issued the following interlocutors / made the following directions:

1. \*\*
2. \*\*

\*\*

Legal member  
\*\*day/month/year