

SCHEDULE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND HEALTH AND EDUCATION CHAMBER RULES OF PROCEDURE 2018

PART 2

Procedure in Respect of references to First- tier Tribunal under section 18(1) of the 2004 Act

Attendance at hearings

38.—(1) Subject to the provisions of this rule, any hearing before the First-tier Tribunal shall be in private.

(2) A legal member or the First-tier Tribunal at a hearing may, on the application of the appellant or on his, her or its own initiative, make an order that a hearing or part of a hearing be held in public.

(3) An order shall not be made under paragraph (2) in any of the circumstances referred to in paragraph (4).

(4) Those circumstances are that a public hearing—

- (a) would prejudice the welfare, wellbeing or interests of the child or young person;
- (b) would not, in all the circumstances, allow the fair hearing of the reference; or
- (c) would not be fair or just.

(5) The First-tier Tribunal, with the consent of the parties or their representatives actually present, may permit any other person to attend the hearing of a reference which is held in private.

(6) An appellant or authority who does not intend to attend or be represented at the hearing may, not less than five working days before the hearing, submit additional written representations in support of their case.

(7) The following persons, as well as the parties and their representatives, shall be entitled to attend the hearing of a reference held in private—

- (a) the child or young person unless, in the case of a child, the First-tier Tribunal considers that in respect of the whole or any part of the proceedings the welfare, wellbeing, or interests of that child would be prejudiced by being present;
- (b) a parent of the child or young person who is not a party;
- (c) a supporter under rule 5;
- (d) a person appointed under rule 43(2);
- (e) a witness, but only for the purpose of giving evidence;
- (f) the Chamber President and a member of the First-tier Tribunal (when not sitting as a member of the First-tier Tribunal);
- (g) a member of staff of the Scottish Courts and Tribunals Service;
- (h) an interpreter;
- (i) a person giving necessary assistance to a person entitled to attend the hearing.

(8) Without prejudice to any other powers it may have, the First-tier Tribunal may exclude from the hearing, or any part of it—

- (a) a person whose conduct has disrupted or is likely, in the opinion of the First-tier Tribunal, to disrupt the hearing;

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- (b) a person, including the child or young person, whose presence is likely, in the opinion of the First-tier Tribunal, to make it difficult for any person to present evidence or make representations necessary for the proper conduct of the hearing;
- (c) a representative who was not notified to the First-tier Tribunal in the reference, response or in accordance with rule 4; or
- (d) a witness not included in the list of witnesses submitted by either party in accordance with rule 33(1).