

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

Conduct of the hearing

39.—(1) At the beginning of the hearing the legal member shall explain the procedure which the First-tier Tribunal proposes to adopt.

(2) The First-tier Tribunal may permit a parent of the child or young person, who is not a party, to address it on the subject matter of the reference.

(3) The First-tier Tribunal may, if it is satisfied that it is fair and just to do so, permit—

(a) the appellant to rely on grounds not stated in the reference or in any statement of case and to produce or lead any evidence not presented to the authority prior to the date of—

(i) the decision which is the subject of the reference; or

(ii) the provision of a copy of the co-ordinated support plan or amended plan in accordance with section 11(5)(a) of the 2004 Act containing the information which is the subject of the reference; or

(b) the authority to rely on grounds not specified in the response.

(4) If, at or after the beginning of a hearing, a member of the First-tier Tribunal other than the legal member is absent, the hearing may, with the consent of the parties, be conducted by the legal member and the remaining member and in that event the First-tier Tribunal shall be deemed to be properly constituted, and the decision of the First-tier Tribunal shall be taken by the legal member and that member (see regulation 2(4) of S.S.I. 2018/).

(5) In the absence of the consent referred to in paragraph (4) the hearing shall be postponed.

(6) Except in so far as expressly permitted by these Rules to give evidence or to address the First-tier Tribunal none of the persons mentioned in rule 38(5) or (7) shall, save in the case of persons mentioned in rule 38(7)(h), take any part in the hearing or (where entitled or permitted to remain) in the deliberations of the First-tier Tribunal.

(7) For the purposes of arriving at its decision the First-tier Tribunal shall, and for the purposes of discussing a question of procedure, may, notwithstanding anything contained in these Rules order all persons to withdraw from the sitting of the First-tier Tribunal other than the legal member and ordinary members of the First-tier Tribunal and any of the persons mentioned in rule 38(7)(f) and (g).