
WELSH STATUTORY INSTRUMENTS

2012 No. 322

**The Special Educational Needs
Tribunal for Wales Regulations 2012**

PART C

CASE FRIENDS

Application

63. Regulations 64 to 68 apply to an appellant or a claimant other than an appellant or claimant who is a parent of a child who is the subject of the appeal application or the claim application.

Requirement for case friend

64.—(1) Subject to paragraph (2), an appellant or a claimant may conduct proceedings in relation to an appeal or claim without a case friend.

(2) An appellant or a claimant may not conduct proceedings where the President or the tribunal panel has made a finding that the appellant or the claimant does not have sufficient understanding to participate or continue to participate as a party to the appeal or the claim without a case friend.

(3) The question of whether the appellant or the claimant has sufficient understanding to conduct proceedings without a case friend, whether raised—

- (a) by a party to the appeal or the claim; or
- (b) by the President or the tribunal panel, of the President's or the tribunal panel's own initiative,

is to be determined by the President or the tribunal panel.

(4) Where paragraph (3)(a) applies, it is for that party to satisfy the President or the tribunal panel that the appellant or the claimant does not have sufficient understanding to conduct the proceedings without a case friend.

(5) The President or the tribunal panel may hear any evidence that the President or the tribunal panel considers relevant to determine the question under paragraph (3).

(6) Any hearing held for the determination of the question must not take place in public.

(7) The President or the tribunal panel may exclude from the hearing, or part of it, any person whose presence is likely, in the opinion of the President or the tribunal panel, to make it difficult for the appellant or the claimant to make representations.

(8) Where the President or the tribunal panel has made a finding in accordance with paragraph (2), the President or the tribunal panel must direct the appellant or the claimant to appoint a case friend.

Who may be a case friend

65. A person may only act as a case friend if the person is not barred from regulated activity relating to children within the meaning of section 3(2)(a) of the Safeguarding Vulnerable Groups Act 2006(1).

How a person becomes a case friend

66.—(1) A person who wishes to act as a case friend must submit a declaration of suitability to the Tribunal.

(2) The declaration of suitability must state—

- (a) the name and address of the person who wishes to act as the appellant’s or claimant’s case friend and if available, the person’s telephone number, fax number and email address;
- (b) the name and date of birth of the appellant or claimant;
- (c) the person’s relationship or connection to the appellant or claimant;
- (d) that the person satisfies the conditions and requirements specified in regulation 65 and section 332ZC(2) of the 1996 Act(2).

(3) The declaration of suitability must include—

- (a) the views of the appellant’s or the claimant’s parent in relation to the person’s wish to act as the appellant’s or the claimant’s case friend; or
- (b) an explanation of why the person has not established the parent’s views.

(4) Subject to paragraph (5) the declaration of suitability must be accompanied by an enhanced disclosure certificate issued by the Criminal Records Bureau confirming the person’s suitability to work with children.

(5) The requirement in paragraph (4) does not apply where the person who wishes to act as the case friend is the appellant’s or the claimant’s parent, step-parent, brother, step-brother, sister, step-sister, grand-parent, uncle, aunt, nephew or niece.

(6) The Secretary of the Tribunal must—

- (a) record on the Tribunal’s register the disclosure certificate’s number and the start and expiry date;
- (b) use the recorded delivery service to return the disclosure certificate to the person.

(7) The declaration of suitability may be accompanied by evidence to support the person’s suitability to act as a case friend.

(8) The declaration of suitability must be signed by the person who wishes to act as the appellant’s or the claimant’s case friend.

(9) The person who wishes to act as the child’s case friend must serve a copy of the declaration of suitability on—

- (a) the parties to the proceedings; and
- (b) the appellant’s or the claimant’s parent.

(1) 2006 c. 47. Under section 3(2)(a) of the Safeguarding Vulnerable Groups Act 2006, a person is barred from regulated activity relating to children if the person’s name is included in the list in Part 1 of Schedule 3 to that Act (“the children’s barred list”).

(2) 332ZC(2) of the 1996 Act provides that a child’s case friend must make representations and exercise rights fairly and competently, have no interest adverse to that of the child and ensure that all steps and decisions taken by the case friend are for the benefit of the child and take account of the child’s views.

Steps in proceedings

67.—(1) If during the appeal or the claim the President or the tribunal panel make a finding under regulation 64(2), no party may take any further step in the appeal or the claim without the President's or the tribunal panel's permission until and unless a person who wishes to act as the appellant's or the claimant's case friend has submitted a declaration of suitability to the Tribunal in accordance with regulation 66.

(2) Where a person has submitted a declaration of suitability under regulation 66, the Secretary of the Tribunal must send all documents and notices concerning the appeal or claim to the case friend instead of the appellant or the claimant.

(3) If paragraph (2) applies references in these Regulations (however expressed) to sending documents to, or giving notice to, the appellant or the claimant must be construed as references to sending documents to, or giving notice to, the case friend.

Removing a case friend

68.—(1) A person may act as a case friend unless the President or the tribunal panel directs that the person may not, or may not continue to, act as a case friend.

(2) The President or the tribunal panel may make a direction in accordance with paragraph (1) on the President's or the tribunal panel's own initiative or on application, if satisfied that—

- (a) the person does not meet any of the conditions set out in regulation 65 and section 332ZC(2) of the 1996 Act; or
- (b) other good reason exists.

(3) An application for a direction to remove a case friend may be made by—

- (a) a party;
- (b) the case friend.

(4) An application for a direction to remove a case friend must be supported by evidence.

(5) Where a direction is made under paragraph (1) the President or the tribunal panel—

- (a) may direct the appellant or the claimant to appoint a new case friend; and
- (b) may stay the appeal or the claim until the appellant or the claimant has appointed a new case friend.

(6) The Secretary of the Tribunal must serve notice on the parties of any direction made under paragraph (1) stating—

- (a) that the person no longer acts as the appellant's or the claimant's case friend; and
- (b) where a person has been substituted as a case friend, the name and address of the new case friend for service of notices and documents.

(7) The Secretary of the Tribunal must serve a copy of a direction made under paragraph (1) on the person who has been removed as the case friend.