



# Additional Support Needs Tribunals for Scotland

## **Presidential Guidance 3**

### **Guidance on Supporters**

This guidance is issued to assist parties to determine who may attend as their supporter and what role they may take at a hearing. It is also to assist Tribunals in making consistent rulings on the role of the supporter.

1. Rule 27 (7) (c) permits, among those entitled to be present at a hearing, “a person attending to support a party”. No further guidance is given as to the role of that individual or the nature or extent of the support which can be provided by the presence of a supporter.
2. In view of the other persons specified in Rule 27, it is clear that a supporter is not (a) a representative, (b) a person giving necessary assistance to a person entitled to attend a hearing (such as an interpreter or nursing assistant), or (c) a witness.
3. In order to promote and support the overriding objective specified in Rule 3 it is appropriate to limit the numbers of persons present during the hearing and is therefore a matter for the Tribunal on the day of the hearing to determine if the person attending as a supporter is properly attending in that role, and if the Tribunal is not satisfied that that person is properly present as a supporter, that person may be excluded.
4. There is no requirement under the rules to notify the identity, address or status of the supporter in advance of the hearing, but any party wishing a ruling in advance of the hearing may make an application to the convener who may make a ruling, if it is possible to do so.
5. For general guidance, where a party, either an appellant or an education authority, has no named representative, legally qualified or

otherwise, there will be a general presumption that the party may be accompanied by any supporter of their choice. In these circumstances this may include a person to assist the party to present their case. However such assistance shall not include a right to address the Tribunal on any issue.

6. For the avoidance of doubt, regardless of whether an Education Authority is represented by someone from the Education Authority or by a person from their legal department, the authority may, under the rules, arrange for another person to be present as the party to the reference. Such a person is not "a supporter" in terms of the Rules as a supporter may only be present where there is a party to support and cannot be present where there is no party to support (Rule 27 (7) (c) "a person attending to support a party" ). The person instructing the representative, as the personification of the education authority, is entitled to give evidence in that capacity and will not be counted as one of the witnesses allowable under the rules.
7. Where a party is represented, it is clear that the role of the supporter is to be present to "support the party" and cannot be present in the capacity of an assistant to the representative. There is entitlement to one representative only and a supporter cannot attend to effectively provide double representation as this is inconsistent with the informality of proceedings.
8. Where there is no representative, the supporter should sit beside the party, but where a representative has been instructed the supporter may be required to sit just behind the party, depending on the space available and room layout.
9. The presence of a supporter whose conduct has disrupted, or is likely to disrupt the hearing may, in any event, be excluded under Rule 27 (8).

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