



Additional Support Needs  
Tribunals for Scotland

## **Tribunal Forum**

### **22 April 2015 at Europa Building, Glasgow**

Each year the Tribunal holds a meeting which allows people the opportunity to meet the President, the Secretary and members of the Secretariat, and to discuss topical matters in relation to the Tribunal.

The most recent forum was held on Friday 22 April 2015 in Glasgow, and was attended by the members of 17 organisations.

Below is a flavor of the questions and topics discussed at the event.

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### **The views of the child**

#### *1. Royal College of Speech and Language Therapists (RCSLT)*

*These enquiries have been taken from polling a range of Speech and Language Therapists within the organisation and give a flavour of the types of issues therapists often encounter within a Tribunal setting.*

#### **Cases regarding older young people and consent: - how to respect the views of children and young people with capacity where these differ from their parents in a Tribunal.**

How Tribunals handle these types of situations is an area which has been given increased attention through our member training programme. At our most recent training event on 31 March 2015, we devoted a full section of the programme to this particular area.

It is a key skill of any tribunal to be able to extrapolate the views of the child from other sources, and how the Tribunal operates is explained in more detail on our website. There is also a President Direction explaining how the views of the child are to be sought.

This is a very useful example, which will be considered as a specific case study to be used at future training events.

*The RCSLT will encourage members to make use of the Tribunals' website and advise members of the range of general guidance there is on the Tribunal.*

This may also be an area where further guidance needs to be produced on the different ways the Tribunal can hear the views of the child. This could take the form of an Information or Guidance note, which would be made available on our website.



## **Consent from older young people to allow an investigation into health/medical information.**

*This is a situation encountered by Speech and Language Therapists which is often difficult to negotiate and legally complex, especially if parties are opposed.*

The President acknowledged the difficulties which can exist. The Education (Scotland) Bill will introduce a test of capacity and best interests in relation to the exercise of rights under the 2004 Act. Although this does not relate to consent for medical treatment, RCSLT members may find the Bill and its processes around consent of interest.

### *2. Partners In Advocacy (PIA)*

## **The presence and involvement of children's advocacy workers at tribunals.**

*Is there a standard policy the Tribunal operates with?*

The President's view is that an advocacy worker should be present during the tribunal if the child is present or if the child requests their advocacy worker to be there. She agrees that the impartial role the advocacy worker plays is a vital one in the process.

It seems increasingly likely that a Guidance note may be useful to enshrine these principles.

*This would also provide structure for situations where PIA are sought to seek the views of children without capacity, which is often a situation fraught with difficulty.*

*This also throws up the issue of how you assess capacity, which requires more than knowing the child but to understand the child as well as understand and interpret how children communicate.*

These principles may indeed be addressed under the Education Bill, which will have procedures on how Education Authorities assess capacity in a child or young person.

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## Efficiency in Tribunal process

### 3. *Independent Advocacy, Perth and Kinross (IA)*

#### **Clarification of processes/timescales**

*As an advocacy worker, how can I prepare parents, children and young people for a Tribunal in order for them to take an active part in the process?*

The President would encourage IA to explore the range of communication tools developed for this purpose, particularly our Information Notes which explain the process from making an application onwards.

### 4. *Advocacy, Western Isles (A)*

#### **Families having to pay for and provide their own independent reports**

*There are few areas where families can go to get funding to meet the costs in producing Tribunal reports. I wonder if you can clarify if there is any supports available to families if an independent report or expert witness is felt required for a Tribunal?*

If a claim is raised, funding can be sought via Legal Aid. If a reference has been raised, Let's Talk ASN is a free national advocacy service which can be accessed.

*Is this the same if the reference is made by a child with capacity? Is the parents income taken into account?*

This will hopefully be clarified by the new support service which will be introduced by the Education (Scotland) Bill.

### 5. *RCSLT*

#### **The importance of panels taking up to date evidence on best SLT practice in to account in their decision making**

The President concurred with the view that it is important to take into account up to date evidence.

Tribunal members have a range of expertise. Some of our members are speech and language therapists. Training will address this matter.



**Independent therapist reports and the need to reflect assessment of the child/young person**

*What is the process whereby the Tribunal consider the value of particular reports?  
What weight do the Tribunal give to advocacy and SLT reports?*

The tribunal will reflect, compare and contrast the evidence presented to them. Each tribunal will consider all of the evidence presented to them and decide thereafter what weight to attach. The decision of the tribunal should explain why it has attached more weight to one report than another.

An advocacy report sets out the views of the child and can be invaluable in assisting the tribunal in its understanding.

**Concern about levels of provision of SLC support/SLT generally**

*This is a reflection of the concerns of the increasing workload put on SLT members, and the knock on effects this may have on the Tribunal.*

The President understands the pressures and concerns held regarding the SLT provision across the country and the impact such work can have on the Tribunal.