

SPECIAL EDUCATIONAL NEEDS AND DISABILITY TRIBUNAL (SENDT)

Nature of the Role – SENDT Legal Chairman

The Legal Chairman of SENDT chairs a panel of three and sits with two other members, each of whom has experience of special educational needs and/or disability issues. The Tribunal considers Appeals in relation to matters concerning provision for special educational needs and Claims concerning allegations of disability discrimination in schools.

Prior to the hearing, panel members will receive papers relating to the case. These will include a case statement from the Appellant and Respondent together with reports from experts and associated material. These papers must be read and assimilated in advance of an oral hearing.

Hearings start at 10.00am and generally take place in the Tribunal Hearing Centre at the Royal Courts of Justice. The panel meets at 9.30am and the Chair of the panel will give an outline and seek the panel's agreement on the issues requiring the Tribunal's consideration and any specific legal issues arising. The Chair may seek clarification from the other members in relation to the reports contained in the papers or other educational or disability matters. Similarly, the other members may seek guidance from the Chair in relation to legal or procedural matters. In addition, there will be discussion as to the lines of enquiry to be pursued at the hearing and suggestions as to which member might want to ask particular questions.

At the outset of the oral hearing the Chair will usually inform the parties involved in the Appeal or Claim the issues that the Tribunal has identified for consideration. The parties are invited to add to these issues as they see fit. The parties may avail of the opportunity to withdraw from the hearing room for a brief period to consider the issues identified before the proper hearing commences. The hearing is best conducted in a manner akin to a business conference rather than a formal inquisitorial hearing with examination and cross-examination of witnesses particularly when a party is not represented by an advocate. It is the responsibility of the Chair to conduct the hearing as informally as circumstances permit. Panel members will also ask them questions. Often Appellants and Claimants will not have representatives to assist them.

It is for the Chair to manage the hearing appropriately ensuring that it is conducted fairly and that all evidential and legal issues have been addressed.

When the hearing is finished the panel will deliberate. The Chair will ensure that the panel members direct themselves clearly to the rules and regulations contained in the Special Educational Needs and Disability (Northern Ireland) Order 2005, the evidence, the findings of fact and the reasoning behind the panel decision. The panel does not normally give a summary decision on the day of hearing. There is then a period of 14 days within which the reasoned decision must issue. It is for the Chair to draft the decision and to ensure that it properly addresses the evidence and the reasons for the decision. The decision is the decision of the panel and will be approved by the other panel members before being finalised and issued.

Hearings are arranged by the very efficient secretariat. Panel members are asked on a regular basis and typically weeks in advance of hearings if they are available to sit on particular dates. However they may be asked to sit at short notice. On occasions prior to a hearing there may be application for an adjournment for determination by the Chair. If the Appeal or Claim is settled or withdrawn the hearing will be cancelled.

Unfortunately adjournment applications can occur very close to the scheduled date of the hearing.

The work of a Chair of the SENDT is extremely interesting and challenging. It also carries with it great responsibility, dealing as it does with the educational needs and wellbeing of children and the concerns of parents in that regard. Very often one encounters pleas from parents for provision for children in circumstances where such provision may not objectively appear to be in the best interests of the child or be excluded by the relevant legislation. The support from working with panel members from different disciplines is very satisfying. It also brings with it welcome new perspectives to those of us from a legal background.