
WELSH STATUTORY INSTRUMENTS

2021 No. 406

The Education Tribunal for Wales Regulations 2021

Tribunal enquiries

Public and private hearings: arrangements and exceptions

40.—(1) Subject to paragraph (2), all hearings of the Tribunal must be in private.

(2) The President or the tribunal panel may make an order that a hearing or part of a hearing is to be held in public if the parties agree to a public hearing and the President or the tribunal panel is satisfied that a public hearing would—

- (a) not prejudice the welfare or interests of the child or young person, and
- (b) allow for the fair hearing of the appeal or claim.

(3) Subject to paragraph (6), the following persons are entitled to attend a hearing even though it is held in private—

- (a) the parties,
- (b) the parties representatives,
- (c) the parties witnesses, and
- (d) any person who has been appointed to act as a case friend in accordance with regulation 61.

(4) The following persons are also entitled to attend a hearing even though it is held in private—

- (a) the child, where the child is not a party to the appeal or claim;
- (b) a parent of the child, where the parent is not a party to the appeal or the claim;
- (c) the clerk to the tribunal panel and the Secretary of the Tribunal;
- (d) the President, a Chair, or a lay panel member (when not sitting as a member of the tribunal panel);
- (e) a person undergoing training as a Chair, a lay panel member or as a clerk to the tribunal panel;
- (f) a person acting on behalf of the President in the training or supervision of clerks to tribunal panels;
- (g) an interpreter;
- (h) any person giving other necessary assistance to a person sitting as a member of the tribunal panel or entitled to attend the hearing further to this regulation;
- (i) any person named by the appellant or the claimant in response to the enquiry under regulation 24(a)(vi) or (vii) unless the President or the tribunal panel has determined that any such person must not attend the hearing and has notified the appellant or the claimant accordingly.

(5) The President or the tribunal panel, with the consent of the parties or their representatives actually present, may permit any other person to attend a hearing which is held in private.

(6) Without prejudice to any other powers it may have, the President or the tribunal panel may exclude from a hearing, or part of it—

- (a) a person whose conduct in the opinion of the President or the tribunal panel has disrupted, or is likely to disrupt, the hearing;
 - (b) a person whose presence in the opinion of the President or the tribunal panel has made, or is likely to make, it difficult for any person to give evidence or make the representations necessary for the proper conduct of the hearing;
 - (c) a representative or witness whom a party omitted to name, without reasonable cause, in response to the enquiry by the Secretary of the Tribunal under regulation 24.
- (7) Except as provided in regulation 43(3) and (4) none of the persons mentioned in paragraph (4) or (5) may, except in the case of the persons specified in sub-paragraphs (c), (g), and (h) of paragraph (4) as their respective duties require, take any part in the hearing or (where entitled or permitted to remain) in the deliberations of the tribunal panel.

Commencement Information

II [Reg. 40](#) in force at 1.9.2021, see [reg. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Education Tribunal for Wales Regulations 2021, Section 40.