



## GUIDANCE TO TRIBUNAL MEMBERS No 02/2024

### DRAFTING A LETTER TO THE CHILD OR YOUNG PERSON

#### *Purpose of this Guidance*

1. Where the child or young person has played a prominent part in the hearing, the tribunal shall consider whether it is appropriate to write a letter to them, briefly explaining the decision.
2. This guidance is to be read in conjunction with President's Guidance to Tribunal Members [No 01/2021 \*The Child, Young Person and the Tribunal\*](#).
3. Part 1 of this guidance applies to all letters to the child or young person.
4. Part 2 of this guidance applies where the tribunal, having decided to prepare a letter to the child or young person, decides that it would be appropriate to prepare it in visual form (**visual letter**).

#### *United Nations Convention on the Rights of the Child*

5. Communication of the outcome of a case to a child affected by that outcome, in a way that the child can understand, is a basic right protected in Article 13 of the United Nations Convention on the Rights of the Child (**UNCRC**). That Article carries The Right to Freedom of Expression, which includes the freedom to receive information and ideas of all kinds 'either orally, in writing or in print, in the form of art, or through any other media of the child's choice'.<sup>1</sup> That right has been interpreted as including a requirement for 'relevant, appropriate and timely information which recognizes the differences in levels of understanding among [children] [and], is tailored appropriately to age, level and capacity'.<sup>2</sup>
6. The UNCRC Article 12, The Right to Respect for the Views of the Child, which includes a right to have the opportunity to be heard in any judicial proceedings affecting the child,<sup>3</sup> implies a right that the child can see that their views have been taken into account. The letter to the child satisfies that implied right.

<sup>1</sup> This wording appears in Article 13(1).

<sup>2</sup> Committee on the Rights of the Child in 'General Comment No 3: HIV/Aids and the Rights of the Child', 17 March 2003 CRC/GC/2003/3 para 16, quoted as being applicable more generally in Tobin, J., *The UN Convention on the Rights of the Child: A Commentary*, 2019 OUP, page 454 and footnote 106.

<sup>3</sup> UNCRC, Article 12(2).

*Letter to the child or young person*

7. If the child or young person is a party, or the child or young person has played a prominent part in the hearing, the tribunal shall consider whether it is appropriate to write a letter to them, briefly explaining the decision. The legal member or tribunal may consult with the parties before deciding whether to issue a letter. This can be done during a CMC or, more usually, at the end of the hearing.
8. The legal member shall clarify where the letter should be sent. If the child or young person has an independent advocate, it may be helpful to send it to the advocate who will support them to read the content. If the child or young person is represented, the letter may be sent to the representative.
9. A copy of the letter will be issued to the respondent/responsible body, unless there is good reason not to do so. The letter to the child or young person does not form part of the decision.
10. The letter shall be issued in the format which is most accessible for the child or young person. The letter shall be no more than one and a half sides of A4. The legal member shall consult with the specialist members on its content. It shall include the following:

*1. An acknowledgment of the child's input.*

*Examples:*

We found your drawings helpful. They helped us to understand what you think about your school.

Thank you for explaining what you thought about the two schools. It was very helpful.

*2. A short statement setting out the decision.*

*Examples:*

We decided that you should have a co-ordinated support plan (CSP).

We decided that Anywhere Council was wrong to refuse your mum's request that you attend A School and we have told the Council that you should attend A school, starting from 1 September.

We decided that you should stay in B school. We did not think that it was a good idea for you to change schools.

We decided that you have been treated unfairly and that your exclusion should not

have taken place. We have made an order that this be removed from your school record and that you re-start school right away.

3. *A short summary explaining why the tribunal made the decision.*

*Examples:*

We thought that you needed support from the Speech and Language Therapist and the Genius Project to help you to do well in school. This support needs to be organised and you need to know who, when and how you will be helped. The CSP will do this.

We thought that A school would be better suited to meet your additional support needs. We did not think B school would help you as much.

4. *A short ending.*

*Example:*

We wish you well in your school education. You told us you want to be a teacher when you leave school and we hope you are able to do that.

## **Part 1: Drafting conventions for letters to the child**

11. This Part applies to all letters to a child.
12. The font type to be used is Inter. If you do not have access to this font the casework team will amend the font before it is issued.
13. The minimum font size to be used is 12 point.
14. The margins must be justified.
15. Sentences must be separated by two spaces.
16. Each sentence should consist of no more than 15 words.
17. Each sentence should capture only one point.

18. Plain English should be used. Some tips and practices to help here are in the book Cutts, M. *The Oxford Guide to Plain English*, OUP 2020. In particular, the Plain English word list on pages 48-54 and the list of Commonest Words at Appendix 1 (pages 301-306) will help.
19. Jargon (technical language, such as legal, educational or health terms) should be avoided.
20. Further guidance is available in the European Commission's publication [Creating child-friendly versions of written documents: A guide](#), European Union, 2021.

## **Part 2: Deciding on and preparing a visual letter to the child or young person**

21. The tribunal, when preparing a letter to the child or young person, should consider whether it would be appropriate for it to be a visual letter.
22. A visual letter is one that contains a combination of text and images. The purpose of the images is to illustrate the accompanying text, to make the messages in the letter easier to understand.
23. The main factors to consider when deciding whether to prepare a visual letter include:
  - a) The age of the child or young person;
  - b) The intellectual level of the child or young person;
  - c) Evidence that the child or young person prefers communications in which text and images are combined; and
  - d) Any preference on the style of letter (text only or text and visual) expressed by or on behalf of the child or young person.
24. The tribunal should use its expertise and knowledge of the child or young person when considering whether or not to prepare a visual letter. For some children and young people, using images and text can feel patronising.
25. Where a tribunal decides to prepare a visual letter, any images must be chosen from the HEC images library (Attachment 7).
26. In all visual letters, images must appear on the left of the page, with corresponding text to the right. Each image should be chosen to match the text beside it, so that the recipient sees clearly how they correlate.
27. Six style letters are provided in this guidance as attachments, as follows:

Style Letter 1: Blank Letter to the Child (without visuals)

Style Letter 2: Younger Child

Style Letter 3: Placing Request Reference

Style Letter 4: Discrimination Claim: Exclusion

Style Letter 5: Discrimination Claim: Restraint

Style Letter 6: CSP Reference

28. These style letters contain suggestions for level and content of text for particular case-types. They are not prescriptive. The tribunal should choose wording appropriate for the child or young person.
29. Style Letter 1 is designed to assist in the preparation of a visual letter to a child under the age of 10, or for a child who has the intellectual capacity of an under 10 year old.

May Dunsmuir  
Chamber President  
July 2024