

Education Appeal Committee
2 August 2020

At a Meeting of the Education Appeals Committee of North Ayrshire Council at 2.00 p.m. involving participation by remote electronic means.

Present

Ian Clarkson (North Ayrshire Council); and Karen Wallace and Val Gibson (Lay Members).

In Attendance

P. Gosnay, Senior Manager (Education); and K. McDowall, Clerk to the Education Appeal Committee.

Also in Attendance

Appellant, his partner and the child.

Chair

Councillor Clarkson in the Chair.

1. Declarations of Interest

There were no declarations of interest by Members in terms of Standing Order 10 and Section 5 of the Code of Conduct for Councillors.

2. Minutes

The Minutes of the meeting of the Committee held on 6 September 2019 were confirmed and the Minutes signed in accordance with Paragraph 7 (1) of Schedule 7 of the Local Government (Scotland) Act 1973.

3. Exclusion of the Public and Press

The Committee resolved, in terms of Section 50(a)4 of the Local Government (Scotland) Act 1973, to exclude from the Meeting, the press and the public for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 7A of the Act.

4. Appeal Against the Education Authority's Decision to Exclude a Pupil from School

Submitted report by the Chief Executive on an appeal against the Education Authority's decision to exclude a pupil from school.

The appellant, having been invited to attend, was present and accompanied by a friend and the child. The Senior Manager (Education) was also in attendance.

Those present were introduced and their role in the proceedings explained. Preliminary matters were dealt with at the outset. It was noted that the appellant had asked that his partner and the child himself, be present during the hearing and that the child be allowed to give evidence as required. The Clerk advised that there had been a pre-hearing discussion in this respect and the Panel had agreed that the appellant's partner could attend in the role of a friend to the appellant in terms of the rules and that the child would be permitted to give evidence as a witness, but at a single point, rather than as required as requested by the appellant. The Clerk also noted in the event that any matters which may distress the child were to be discussed, the child should be asked to vacate the hearing only whilst those discussions took place, following which he would be permitted to re-enter the hearing. Discussions took place regarding privacy as it appeared that the appellants partner was outside using a device to listen to the hearing, following which she went indoors.

The Clerk then outlined the procedure to be followed by the Committee and advised on how the decision of the Committee would be intimated to the appellant and the Education Authority before the Chair invited the Education representative to make their case. The appellant and his representative and Committee Members were afforded the opportunity to question the Education representative.

The appellant was then invited to present his case. The child was given the opportunity to give evidence as per the appellant's request but advised he did not want to discuss the matter. The Education representative and Committee Members then had an opportunity to question the appellant and his representative.

The Education representative and the appellant summed up their cases. Thereafter, both parties withdrew to allow the Committee to deliberate.

Decision

The Committee agreed to (a) uphold the appeal; and (b) annul the Education Authority's decision to exclude the pupil from school.

The reason and the material consideration for the decision were that the Appeal Committee were of the view that the behaviour displayed by the child in the lead up to the exclusion was as a result of his condition. Whilst it was unclear whether the child had any formal diagnosis, the Appeal Committee was satisfied that there was sufficient evidence to support the child having a disability and, therefore, that he be afforded the protection of the Equalities Act 2010. The Appeal Committee felt that the school exercised all the strategies available to them and recognised that they

had a duty to other pupils, but ultimately was of the view that the behaviour displayed by the child in the lead up to the exclusion was as a result of his condition. The Committee noted that it was agreed by those involved with the child that the school did not meet the needs of the child and that alternative provision be explored. The Committee encouraged all efforts to be made to identify a suitable learning environment for the child.

The meeting ended at 4.00 p.m.