

NORTH LANARKSHIRE COUNCIL

REPORT

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| To: GENERAL PURPOSES COMMITTEE | | Subject: EDUCATION APPEAL COMMITTEE: THE SCOTTISH COMMITTEE OF THE COUNCIL ON TRIBUNALS |
| From: DIRECTOR OF ADMINISTRATION | | |
| Date: 6 February 2003 | Ref: JAF/IL | |

1. Purpose of Report

- 1.1 The report advises the Committee of general dissatisfaction expressed by the Scottish Committee of the Council on Tribunals with regard to the operation of the education appeal system in Scotland.
- 1.2 The report advises the Committee, also, of comments provided to North Lanarkshire Council by the Scottish Committee of the Council on Tribunals following the attendance by a member of the Scottish Committee at an Education Appeal Committee hearing in Bellshill on 7 January 2003.

2. Background

- 2.1 The education appeal system is governed by the Education (Scotland) Act 1980 and by regulations made under that Act. These provisions require local authorities to establish independent Education Appeal Committees to review school admission and exclusion decisions.
- 2.2 Education Appeal Committees, being independent tribunals, are not formal Committees of the Council under the Local Government (Scotland) Act 1973. Under the Tribunals and Inquiries Act 1992, these Committees are under the jurisdiction and supervision of the Scottish Committee of the Council on Tribunals. In discharge of their responsibilities, members of the Scottish Committee of the Council on Tribunals attend Education Appeal Committee hearings throughout Scotland. As a result of those visits the Scottish Committee of the Council on Tribunals has expressed concern about the way in which the Education Appeal Committee system in Scotland has been allowed to develop and operate.
- 2.3 Within North Lanarkshire, responsibility for the operation of Education Appeal Committees rests with the Department of Administration.

3. Concerns Expressed

- 3.1 These concerns have led the Scottish Committee of the Council on Tribunals, to produce a special report relating exclusively to the education appeal system. Matters highlighted in that report include the following areas:
 - Venues used for hearings - the hearing venues are often insufficiently divorced from premises associated with the Education Authority to be seen as being properly independent;

- Committee Clerks - Committee Clerks are often seen to have too close a link with the Education Authority. This, particularly when coupled with undue familiarity with some of the parties to the appeal - and against the background of the responsibility of the Appeal Committee to stand in judgement on the authority's decision - damages the perception of the Committee's independence;
- Training - particular concern has been expressed regarding the training of members of the Appeal Committee. Areas in which training has been identified as necessary include communication, weighing up of evidence and being - and being seen to be - impartial;
- Assistance to the unrepresented appellant - the Scottish Committee of the Council on Tribunals is concerned that insufficient is done to assist unrepresented appellants, particularly in situations in which the Education Authority is well represented;
- *Deliberations and notification of decisions* - the recommendation is that Appeal Committees require to adopt a structured approach during the deliberative stage of proceedings and adhere to procedural regulations. A further recommendation is that the Committee take steps to ensure that decisions are conveyed in simple language and that written notifications contain detailed reasons and explain rights of further appeal.

4. **North Lanarkshire Training**

- 4.1 As part of North Lanarkshire Council's ongoing programme of members' training, a training session on the role of members in education appeals was provided on Thursday, 12 December 2002.

5. **North Lanarkshire Education Appeal Committee Hearing**

- 5.1 Following attendance by a member of the Scottish Committee of the Council on Tribunals at an Education Appeal Committee hearing in Bellshill on 7 January 2003, the following comments have been provided to the Council by the Scottish Committee of the Council on Tribunals:

- Requirement that the tribunal should be independent and provide open, fair and impartial hearings - this requirement was met in full. The panel Chair was effective and in control and his experience in education appeals was evident. The introduction of all those present and the explanation of the proceedings was good and the hearing was conducted with courtesy and patience. The hearing was perceptively fair to all those who attended. The sole adverse comment offered was that there was a lack of diversity in the membership of the panel, all of whom were male and within the same broad age group. A further suggestion offered is that further ongoing appraisal of members' performance would be welcomed by the members of the Education Appeal Committee - if done in a professional way - and could assist in maintaining the standard;
- Requirement that the tribunal should be accessible to users and focus on their needs - this requirement was fully met. The sole adverse comment offered in this regard was that refreshment was not offered to the parties to the appeal. It was appreciated that appellants were usually present for less than one hour but the suggestion was made that some basic liquid refreshment be made available. This will be addressed in future hearings;

- The Scottish Committee of the Council on Tribunals also congratulate North Lanarkshire Council in its production of "Guide for Parents and Guardians". The comment is, however, offered that the ordering of events in the leaflet is a little confusing and that some of the language is legalistic. The contents of the leaflet will now be considered in light of those comments;
- Requirement that tribunals should be properly resourced and organised - this requirement was also met in full. It was noted that both induction and ongoing training was provided to panel members, all of whom indicated that the training was helpful and appropriate and all of whom spoke highly of North Lanarkshire Council's commitment in this area;
- Finally, gratitude was expressed for the very warm welcome extended to the member of the Scottish Committee of the Council on Tribunals and for the time each member of the Appeal Committee was prepared to spend with her.

6. Consideration

- 6.1 Against the general concerns expressed by the Scottish Committee of the Council on Tribunals regarding the education appeal system in Scotland, it is suggested that the very positive comments offered in this instance are to be welcomed as is the benefit accruing from the Council's programme of members' training and development.

7. Recommendation

- 7.1 It is recommended that the Committee authorise the adjustments set out at paragraph 5.1 of this report identified by the Scottish Committee of the Council on Tribunals and otherwise note the position.


Director of Administration

Members seeking further information are asked to contact John Fleming, Head of Central Services on Extension 2228