

## **Lancashire County Council**

### **Student Support Appeals Committee**

#### **Minutes of the Meeting held on Monday, 20th April, 2015 at 10.00 am in Room B15b, County Hall**

##### **Present:**

County Councillor Sue Pryn (Chair)

##### **County Councillors**

A Cheetham

D Stansfield\*

C Dereli

\*County Councillor Stansfield replaced County Councillor Perks for this meeting only.

Also in attendance:

Ms L Brewer, Solicitor, Legal and Democratic Services;  
Mr G Halsall, Business Support Officer, Legal and Democratic Services; and,  
Ms A Esslinger, Complaints Manager, Legal and Democratic Services.

##### **1. Disclosure of Pecuniary and Non-Pecuniary Interests**

County Councillor Cheetham declared a non pecuniary interest in relation to appeal 3744 on the grounds that she knew the appellant. County Councillor Cheetham agreed to leave the room when the Committee considered the appeal later on in the meeting.

##### **2. Minutes of the meeting held on 9th March 2015**

**Resolved:** That; the Minutes of the meeting held on the 9th March 2015 be confirmed as an accurate record and be signed by the Chair.

##### **3. Date of the Next Meeting**

It was noted that the next meeting of the Committee would be held at 10.00am on Monday the 1st June 2015 in Room B15b, County Hall, Preston.

##### **4. Exclusion of the Press and Public**

**Resolved:** That the press and public be excluded from the meeting under Section 100A (4) of the Local Government Act, 1972, during consideration of the following item of business as there would be a likely disclosure of exempt

information as defined in the appropriate paragraph of Part 1 of Schedule 12A to the Local Government Act, 1972, as indicated against the heading of the item.

## **5. Student Support Appeals**

(Note: Reason for exclusion – exempt information as defined in Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Local Government Act, 1972. It was considered that in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information).

A report was presented in respect of 8 appeals against the decision of the County Council to refuse assistance with home to school transport. For each appeal the Committee was presented with a Schedule detailing the grounds for appeal with a response from Officers which had been shared with the relevant appellant.

In considering each appeal the Committee examined all of the information presented and also had regard to the relevant policies, including the Home to Mainstream School Transport Policy for 2014/15, and the Policy in relation to the transport of pupils with Special Educational Needs for 2013/14.

### **Appeal 3712**

At its meeting held on 19th January 2015, the Committee resolved:

"That appeal 3712 be deferred In order for the Committee to receive further information in relation to:

- i. Why temporary discretionary transport was awarded to attend the pupil's 40th nearest school;
- ii. Whether the family receive a bursary for the pupil's sibling to attend a private school;
- iii. Determine whether the mother is currently able to drive, given that it's possible at least three people in the family house had a car each; and
- iv. Determine who takes the pupil to hospital."

In considering the appeal further, the Committee noted that temporary transport was provided because the mother had been admitted to hospital. As this was no longer the case, the Committee could not determine how the mother coped with the school run prior to this event as the Committee felt the health problems that currently exist, were also present prior to being admitted to hospital. It was not clear when the pupil's elder siblings commenced their higher education.

With regard to the pupil's sibling who attended a private school, the Committee could not ascertain whether the bursary provided included the payment of the fees to attend the school as well as for transport provision to the school. No evidence had been provided to substantiate this point.

In considering whether the mother was able to drive or not, no evidence had been provided to substantiate this point. However, the Committee noted the mother's health problems and the family's circumstances.

The Committee noted that the pupil was conveyed to hospital using hospital transport. However, no evidence had been provided to substantiate this point. Whilst the Committee were sympathetic to both the pupil's and the mother's health problems, and after considering all of the mother's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 3712 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2014/15.

### **Appeal 3717**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 0.9 miles from their home address, and instead would attend their 2nd nearest school which was 1.3 miles away and was within statutory walking distance.

In considering the appeal, the Committee noted both the pupil's health problems and the mother's health problems and how these affected both of their ability to walk. The Committee in considering the pupil's health problems further, also noted that they had not participated in physical education at the school for some time and as the condition was stated as being not a long term condition the Committee felt it could make a temporary award to support the pupil in the interim.

Therefore, having considered all of the mother's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee was persuaded that there was sufficient reason to uphold the appeal and provide temporary travel assistance for the pupil up to the end of 2015/16 academic year to support them in the interim to be reviewed.

**Resolved:** That;

- i. Having considered all of the circumstances and the information as set out in the report presented, appeal 3717 be allowed on the grounds that the reasons put forward in support of the appeal were considered worthy of the Committee exercising its discretion to grant an exception and award

- temporary travel assistance which was not in accordance with the Home to Mainstream School Transport Policy for 2014/15;
- ii. The transport assistance awarded in accordance with i. above be up to the end of the 2015/16 academic year (Year 10) only

### **Appeal 3738**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 0.7 miles from their home address, and instead would attend their 3rd nearest school which was 1.8 miles away and was within statutory walking distance.

In considering the appeal, the Committee noted that when the family made their preferences for secondary education they were living nearer to the school and that in November 2014, they had to move to a new address for the reasons as set out in the appeal. The Committee also noted that the family's move was facilitated by their local council and that they now felt happier and safer at their new address.

However, the Committee noted that all the evidence supplied related to the appellant's daughter and not the pupil - for whom transport assistance was being sought. In addition there was no evidence to suggest that the pupil would be at risk walking to school neither was there any evidence to suggest that the pupil was unable to walk the distance to school which was within statutory walking distance for a low income family.

The Committee also noted that there should have been an update regarding the appellant's daughter's circumstances as the matter was pending further enquiries till February 2015.

Therefore, having considered all of the mother's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee was not persuaded that there was sufficient reason to uphold the appeal.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 3738 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2014/15.

### **Appeal 3739**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 0.2

miles from their home address, and instead would attend their 5th nearest school which was 4.4 miles away.

In considering the appeal, the Committee noted that back in 2013, the family had to move house due to their landlord giving them notice to quit. Subsequently, the family obtained a council property in the town they now lived in and appealed for a place at their nearest school. The Committee was informed that the pupil did not settle there due to incidents of bullying upon which the mother decided to transfer the pupil to the school now attended where their friends also attended.

In considering the appeal further the Committee noted that the mother had made a statement in her appeal in relation to the pupil's mental health. The Committee expressed concern in relation to this and felt that there should be evidence available to demonstrate the support put in place at both the pupil's previous and current school. The Committee also felt that there should have been a referral to CAMHS. However, no evidence had been submitted to substantiate the mother's statement or professional support. In addition no evidence had been provided to support the bullying allegations.

In considering the family's financial situation, the Committee noted that the pupil was eligible for free school meals and that the mother was the only adult in the household who worked as her partner had been involved in an accident. However, no evidence had been provided to demonstrate how the mother's partner's accident had affected the family's financial standing.

The Committee noted that the mother worked in the same town where the pupil's school was and that the Council had suggested in the appeal schedule that perhaps the pupil could travel with the mother to and from school with her. However, no response was provided by the mother in relation to this point.

Therefore, the Committee felt that due to a lack of supporting evidence, the appeal should be deferred so that officers could approach the mother to seek evidence in relation to the Committee's concerns and for the appeal to be presented to the Committee at the earliest opportunity.

**Resolved:** That appeal 3739 be deferred in order for the Committee to receive evidence on the following aspects of the appeal:

- i. Information from the pupil's previous and current school;
- ii. Bullying allegations;
- iii. The family's financial standing; and
- iv. Whether the pupil could travel to and from school with the mother when she travels to work.

### **Appeal 3740**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 1.5

miles from their home address, and instead would attend their 5th nearest school which was 3.2 miles away.

In considering the appeal the Committee noted the family's circumstances and that three other siblings attended special schools whereby the mother was required to be at home when transport for these siblings collects and returns them daily therefore resulting in the pupil making their own way to school.

The Committee was informed that the pupil needed routine in their life as a lack of structure affected their behaviour and academic performance. However, the Committee felt that whilst the mother was perhaps suggesting the pupil also had health problems, there was no evidence to substantiate or corroborate those references from the mother in the appeal.

The mother felt that the next nearest school was unsuitable due to a lack of public transport, and that the dedicated school service did not cater for after school activities. The mother also felt that it was in the pupil's best interests to attend a school with direct transport links and as another particular school had no places available and in view of the imminent closure of the school previously attended decided to pre-empt the disruption that would occur by transferring the pupil to the school now attended as she felt this was the most suitable school for the pupil. The Committee noted that the next nearest school was also the family's second preference of secondary school at the time of application for school places.

Whilst the Committee acknowledged the mother's reasons for transferring the pupil, the Committee was advised that it had still not been agreed to close the school previously attended and that should the closure go ahead, the Council would make arrangements to transfer all children to the pupil's next nearest school. In addition, the Council was proposing to offer free transport to the next nearest school to those pupils who would be displaced should the closure go ahead. Furthermore, it was reported that there were two later school bus services specifically provided for pupils who participated in extracurricular activities.

With regard to transport links to the other nearer schools, the Committee noted the mother's reasons for selecting the school now attended. However, the Committee was informed that whilst the Council had accepted that travelling to those schools might incur the need to use two buses, it was reported that many pupils currently did this to get to and from school.

In considering the family's financial circumstances, the Committee was informed that although the pupil came from a low income family they would not qualify for the extended rights which are provided in home to school transport law for such pupils as they did not attend one of their three nearest schools between the distance of two and six miles. The pupil attended their fifth nearest school. The Committee was also informed that the pupil given their age should not need to be accompanied to school, and that when they attended their previous school they were not entitled to free transport as it was within statutory walking distance. It was not known how the pupil made travelled to their previous school and back.

Therefore, having considered all of the mother's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 3740 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2014/15.

### **Appeal 3742**

It was reported that a request for transport assistance had initially been refused as the pupil would not be attending their nearest suitable school, which was 0.5 miles from their home address, and instead would attend their 26th nearest school which was 4.9 miles away.

In considering the appeal, the Committee noted the pupil's health problems and how this affected them. The Committee also noted that the pupil was settled at the school attended where they received support and only had a few weeks remaining before completing their primary education. The mother felt that it would be detrimental to the pupil's educational and emotional wellbeing if they had to change schools twice in a matter of months.

The Committee was informed that the headteacher supported the appeal and stated that the pupil required a steady routine and constant supervision, otherwise they could be a danger to themselves and others, especially when travelling.

In considering the appeal further the Committee noted the Council's acknowledgement and confirmation that due to changes in public transport in the area the journey to school was now a difficult one and that there was no way the pupil could arrive at school on time by public transport at the present time. Given the response from the headteacher, the family's circumstances and that the pupil only had one term remaining at school the Committee felt it could make a temporary award.

Therefore, having considered all of the mother's comments and the officer responses as set out in the Appeal Schedule and application form the Committee was persuaded that there was sufficient reason to uphold the appeal and provide temporary travel assistance for the pupil up to the end of 2014/15 academic year to support the pupil in their final year of primary education.

**Resolved:** That;

- i. Having considered all of the circumstances and the information as set out in the report presented, appeal 3742 be allowed on the grounds that the reasons put forward in support of the appeal were considered worthy of the Committee exercising its discretion to grant an exception and award temporary travel assistance which was not in accordance with the Home to Mainstream School Transport Policy for 2014/15;
- ii. The transport assistance awarded in accordance with i. above be up to the end of the 2014/15 academic year (Year 6) only.

### **Appeal 3744**

County Councillor Cheetham left the room whilst the remainder of the Committee considered the appeal.

It was reported that a request for transport assistance had initially been refused as the pupil already attended their nearest school, which was 2.9 miles from their home address and was within the statutory walking distance.

In considering the appeal the Committee noted that the pupil was in year 10 and that the mother was never aware she could apply for a free travel pass until a friend with a child at the same school, who lived nearby told her that their child was eligible for free transport for the whole of their five years at secondary school. As the neighbour was not eligible due to low income, the mother assumed that her child should also be eligible as their house is further from the school than where her friend's house was.

The Committee was informed that the mother felt the local commercial bus service was very unreliable due to over capacity which meant that she sometimes had to drive the pupil to school to avoid her being late or the pupil had to catch the school bus service which required the pupil to pay again. The mother suggested the route to school was very busy and took almost an hour to walk. The mother also felt that the route to school was a dangerous one for the pupil to walk alone during the winter months.

The Committee noted that the mother had driven the route to school and found it to be 3.1 miles. Whilst the Council had accepted that the driving route would be in excess of the three mile limit, the Council to determine eligibility for home to school transport must use the shortest walking route. The Committee was informed that the Council's bespoke measuring software had established the shortest walking route to be 4729 metres, being 99 metres short of the three mile qualifying distance (48282 metres). In addition, the Council had also checked the walking route with a walking wheel to establish the three mile point. Furthermore, the Council considered the walking route to be a suitable route for a secondary aged pupil, unaccompanied, when assessed against the Council's Suitable Walking Routes Policy.



Whilst the Council acknowledged that the appellant using a straight line measurement lived further away from the school than their friend who lived on a different road and qualified, pupils living at the top end of that cul-de-sac road qualified on the basis that the walking route for those pupils required them to walk back out of the cul-de-sac to join a particular road and that this extra walking distance placed some of the families, at over the three mile limit.

No evidence had been provided to suggest that the family were unable to fund the cost of travel to school and back. Neither was there any evidence to suggest that the family were on a low income. However, the Committee noted that if the family met the low income criteria, then they would qualify for free travel as the statutory walking distance, in such cases, would reduce to two miles.

Therefore, having considered all of the mother's comments and the officer responses as set out in the Appeal Schedule and application form the Committee was not persuaded that there was sufficient reason to uphold the appeal.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 3744 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2014/15.

*County Councillor Cheetham was invited back in to the room in order to consider the final appeal presented on the agenda for this meeting.*

### **Appeal 505147**

The Committee was informed that a request for transport assistance had initially been refused as the pupil concerned would attend a secondary school 2.8 miles from the home address as opposed to the nearest suitable school which was 0.6 miles away. The Committee recalled that it had previously considered an appeal from the mother at two previous meetings – on the first occasion it was deferred for more information in relation to the pupil's benefits, the other occasion it was refused.

In considering the re-appeal the Committee noted that the pupil was unable to function independently and had someone with them at all times when out of the house due them being unable to cross a road and could be easily misled by other people.

The Committee was informed that the mother defended her decision to only opt for the school attended due to its safe layout, the exceptional SEN department and the fact that other pupils who previously bullied the pupil were transferring to the two nearer schools. The parents felt that the school attended would be a fresh start for the pupil.

The Committee noted that the school had put in place measures to support the pupil. The Committee also noted that the mother was awaiting a response from the Government in relation to her request for higher rate mobility component on the basis that the pupil was unable to go out independently. The Committee was informed that the pupil had been referred back to Psychology Services.

Whilst the Committee acknowledged that the pupil might have limited road awareness and was unable to cross a road safely, there was no evidence to demonstrate that the pupil was unable to walk the distance to school accompanied as necessary. Furthermore, the Committee was informed that the pupil was taken to school and back by parents on the bus. However, it was not known whether other students travelled on the same bus as the pupil and whether the school could 'buddy up' the pupil with another pupil whilst their confidence to travel independently grew.

With regard to the bullying allegations, there was no substantive evidence to corroborate such events having taken place. Whilst the pupil had been referred back to Psychology Services, the Committee noted that this was in relation to issues at home around mealtimes, sleep and the general refusal to comply and labile emotions.

The Committee noted the support provided by the school attended, it was reported that the pupil's needs could be met within the school's own budget and that no top up was required from the local authority given the pupil's banding on their statement of special educational needs. Furthermore, the Committee also noted that the pupil's special educational needs arose from their difficulties in social communication skills, social interaction and behaviour.

The Committee noted that the pupil was recently awarded the higher rate care component of DLA, in line with the care component eligibility criteria. However, the mobility component was more in line with the physical aspect of walking/mobility. The Committee felt that as the mother was still awaiting a response from the appropriate government department on this issue there was no substantive evidence to demonstrate that the pupil was unable to walk the distance to school accompanied. Furthermore, the Council's Home to School Transport Policy for Children and Young People with Special Educational Needs stated that the Council could not take the following points into account when considering home to school transport eligibility:

- Parents' work or other commitments;
- If a parent chooses to send their child to a school that is not their nearest appropriate school to the home address.

In these circumstances, when a child does not attend their nearest appropriate school it is the parents' responsibility to ensure that their child gets to school and back safely. The Committee noted that the pupil was attending their third nearest school. However, no information had been provided to suggest that the family was on a low income.

Therefore, having considered all of the mother's comments and the officer responses as set out in the Appeal Schedule, application form and supplementary evidence the Committee felt that the school the pupil would attend was a matter of parental preference and was not persuaded that there was sufficient reason to uphold the appeal.

**Resolved:** That, having considered all of the circumstances and the information as set out in the report presented, appeal 505147 be refused on the grounds that the reasons put forward in support of the appeal did not merit the Committee exercising its discretion to make an exception and award transport assistance that is not in accordance with the Home to Mainstream School Transport Policy for 2014/15 and the policy on the provision of transport for pupils with special educational needs.

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