

EAST AYRSHIRE COUNCIL

EDUCATION COMMITTEE – 30 JANUARY 2007

RESPONSE TO CONSULTATION ON EDUCATION APPEAL COMMITTEES: PROPOSALS FOR REFORM

Report by the Executive Director of Educational and Social Services

1. PURPOSE OF REPORT

- 1.1** The purpose of the report is to inform the Education Committee of the Authority response to the Scottish Executive consultation on proposals for reform of Education Appeal Committees.

2. BACKGROUND

- 2.1** The Scottish Executive issued a consultation document on Education Appeal Committees (EACs) with a response required by 16 February 2007. EACs hear appeals from parents (and young people in certain circumstances) against the local authority's decision to refuse a placing request or to exclude pupils from school. Local authorities establish EACs but they are independent bodies with members drawn from a pool that includes parents, those with knowledge of education, councillors and others. In 2004/05 EACs heard almost 400 appeals; 22% of these were successful.
- 2.2** A report in 2000 by the Scottish Council of the Committee of Tribunals found that the current processes around Appeals Committees were often "seriously unsatisfactory". In 2004, further research with parents who had appealed to Appeals Committees found that the parents nationally thought the process was biased against them.
- 2.3** The Scottish Executive have stated that they wish a system for hearing appeals against placing requests and exclusion decisions that is fair and impartial, and transparent and seen to be so by all those who use it. Thus, the main proposals for improving the current system are:
- Issuing guidance for local authorities for arrangements surrounding EACs.
 - Producing national training material for training those who sit on education appeal panels. Guidance would recommend that panel members had to be trained with this material before being allowed to hear an appeal.
 - Producing an information leaflet on EACs for parents and young people, to be distributed by authorities and published on the Scottish Executive website.
- 2.4** The Education Appeals Committees in East Ayrshire are administered by the Department of Neighbourhood Services.

2.5 A working group was established to review the proposed reforms. The group consisted of representatives from the Department of Educational and Social Services, the Department of Neighbourhood Services and representatives of Appeals Committees. This response has also been agreed with the Executive Director of the Department of Neighbourhood Services.

3. RESPONSE TO THE CONSULTATION PROPOSALS

3.1 The consultation proposals are welcomed in principle. The Education appeals system has operated effectively with East Ayrshire and this is reflected in our response. The full response is attached as Appendix 1.

3.2 The key points within the response are as follows:

- We would welcome guidance being provided to parents regarding the appeals process. This information should be produced in leaflet/document/website form for easy access and understanding by parents.
- We welcome the proposals regarding hearing procedures and parental representation at hearings. However, East Ayrshire already operates good practice in these procedures and in encouraging parents to participate.
- National training materials should be produced and delivered via local authorities. A publicity campaign should be launched to recruit further members for EACs.
- Appeals hearings for placing requests and exclusions should continue to be dealt with separately and by EACs.

4. LEGAL IMPLICATIONS

4.1 Following the consultation period, the Scottish Executive will issue guidance and possibly revised legislation, from which there may be implications regarding the composition of EACs and their operation.

5. FINANCIAL IMPLICATIONS

5.1 Following the consultation period, the Scottish Executive will issue guidance and possibly revised legislation. And that, there may be implications regarding the composition of EACs and their operation there may be additional financial costs involved. This will require clarification in due course.

6. POLICY IMPLICATIONS

6.1 Nil

7. COMMUNITY PLAN IMPLICATIONS

7.1 These proposals will contribute to the theme of Improving Opportunities.

8. RECOMMENDATIONS

8.1 It is recommended that members:

- (i) approve the response to the Education Appeals Committee Proposals for Reform, and
- (ii) otherwise, note the contents of this report.

Graham Short
Executive Director of Educational and Social Services

JMcC/JW
11 January 2007

LIST OF BACKGROUND PAPERS

1. Education Appeals Committees: Proposals for Reform – A Consultation - The Scottish Executive November 2006

Members requiring further information should contact John McCarney, Head of Service: Schools Support (01563) 576126

Implementation Officer: John McCarney, Head of Service: Schools Support

**EAST AYRSHIRE COUNCIL
DEPARTMENT OF EDUCATIONAL AND SOCIAL SERVICES**

**RESPONSE TO A CONSULTATION ON EDUCATION APPEAL COMMITTEES:
PROPOSALS FOR REFORM**

Consultation Questions

Question 1: *Do you agree that a leaflet, with basic information for parents on the following topics, should be produced?*

- *how an appeal hearing is conducted;*
- *who will attend a hearing, and their roles;*
- *rules on submitting evidence;*
- *possible sources of help and advice for appellants.*

Are there any other topics that should also be included in the leaflet?

Yes, a suitable leaflet should be produced. This leaflet should also contain guidance on what constitutes a legitimate appeal, particularly in relation to exclusion issues. Our evidence has indicated that appeals against exclusions are largely based on a difference of opinion rather than hard evidence.

Question 2: *Who should produce such an information leaflet? The Scottish Executive, local authorities, or some other body?*

The Scottish Executive. However, the leaflet should be provided to local authorities to allow them to supplement or customise the leaflet for their local situation. This information should also be provided on Scottish Executive and Local Authority websites.

Question 3: *Rather than producing an information leaflet, should the Scottish Executive set out what information local authorities should provide to those appealing?*

No.

Question 4: *Do you think that any additional sources of advice and support for appellants should be provided? If so, what sort of advice and support should be provided, and by whom?*

Information provided via a leaflet/document should be sufficient. However, each authority should ensure that there is a nominated person who can provide further advice if contacted.

Question 5: *Do you support the use of pre-hearing meetings? If so, what should the purpose of such meetings be, and how should they work?*

Pre-hearing meetings would only be helpful if there was a clarity of purpose about such. Within East Ayrshire, we make genuine attempts to resolve issues which have

led to appeals prior to a formal hearing. Thus, a pre-hearing meeting which attempts to bring about an equitable solution via an independent person would be very similar to the procedures we already use. Given that, it would be difficult to see the benefit of such a pre-hearing meeting.

Alternatively, a pre-hearing meeting which ensures that everyone is fully informed of the procedures and processes may be helpful. However, this would place further pressure on resources and staff in relation to pre-hearing meetings and formal appeal meetings. Thus, the benefits of this proposal are questionable and such information might be better distributed in leaflet form.

Question 6: *Do you agree with our proposal to issue guidance for local authorities on arrangements surrounding Education Appeal Committees? Do you agree with the proposed areas for the guidance to cover (above)? Are there any other topics that you think should be included in the guidance?*

We would fully support the issue of guidance for local authorities on such arrangements. This information should also be made available to prospective appellants, perhaps in addition to the leaflet discussed in question 1, or as a supplement. The provision of such information would prevent the need for pre-hearing meetings.

Question 7: *Is there anything in particular that authorities should put in place to ensure that all those who appeal to EACs have a fair hearing? For example, what provision should the guidance recommend in relation to sign language, interpretation, etc.?*

Within East Ayrshire, there is already a good deal of good practice in running the Appeal Committees, particularly in terms of issues such as seating arrangements, a small number of panel members, etc. Authorities should ensure that specific provision is available to appellants if required.

Question 8: *Do you agree with tackling the issue of representation through guidance? Do you have any ideas or suggestions on ways of making sure that both sides are fairly represented?*

We agree with tackling the issues of representation through guidance. Within East Ayrshire, the authority does not use a solicitor but uses senior officials and head teachers as appropriate.

Question 9: *Do you agree with our proposal to discourage local authorities from holding combined Education Appeal Committee hearings?*

Yes.

Question 10: *Do you think Education Appeal Committees should continue to be able to hold combined hearings (e.g. hearing two or more appeals at the same time)?*

No.

Question 11: *Do you agree with our proposals to recommend that EAC panels do not include a majority of councillors or people who advise the authority on education matters? Do you have any suggestions on how authorities can widen their pool of potential volunteers?*

Within East Ayrshire, the Panels do not include a majority of Councillors or people who advise the authority on education matters. Thus, we would support this proposal.

In terms of widening the pool of potential volunteers, this could be part of an information and publicity promotion by the Scottish Executive.

Question 12: *Should the rules on who can sit on an EAC panel be changed? If so, who should be allowed to sit on an EAC panel?*

No

Question 13: *Do you agree with our proposal to produce training material for authorities to deliver? Do you agree that such training should cover the topics above? Do you think the training should cover any other topics?*

We agree that training materials should be produced by the Scottish Executive and provided to authorities.

We agree that the training should cover the topics proposed.

Question 14: *Do you agree that all panel members should complete training before they sit on an EAC panel? Should this requirement be put in Scottish Executive guidance (which would not be binding on authorities) or in legislation? Please let us know the reasons for your view.*

In principle, we agree that all panel members should complete training before they sit on a panel if possible. This requirement should be placed in guidance rather than in legislation. The reason is that it may be difficult to enforce such legislation because of the recruitment of panel members and the need for further commitment by them.

Question 15: *Do you have any comments on the current timescales for hearing appeals? If you think they should change, what other timescale would be appropriate and realistic?*

The current timescales should not be changed. There can be difficulties in arranging an appeal hearing within 28 days because of the commitments on panel members, authority officials, head teachers, etc. The current timescale, while challenging, is appropriate.

If pre-hearing meetings are introduced, then the timescales will need to be extended to accommodate this, which we feel would be undesirable.

Question 16: *Given the findings of the research and the Scottish Committee's report we would welcome views on whether Education Appeal Committees are still an appropriate means for hearing appeals relating to placing requests and exclusions. Do you think there is another, and better, way of dealing with appeals? If so, what is it? Are there any other existing bodies that could possibly hear these appeals?*

While the current system may not be ideal, it does provide parents with an opportunity to present their case to an impartial body. While it may be possible to consider alternative arrangements, the cost of such proposals must also be considered.

Question 17: *Should we establish new bodies to hear appeals against placing request and exclusion decisions? If so, who should sit on these bodies and how should they work?*

No.

Question 18: *Given the different issues involved should one body hear appeals against exclusions and against placing request decisions? Do you think EACs should have one set of procedures for hearing appeals relating to placing requests, and another set for when they are hearing appeals relating to exclusions? If so, what should be the differences?*

The current arrangements with East Ayrshire operate effectively and allow for efficient use of resources. We see no need to amend the management arrangements for this.

Question 19: *Are there any other comments you would like to make about Education Appeal Committees?*

No.

John McCarney
Head of Service: Schools Support

12 January 2007