

NOTICE OF MEETING

A **MEETING** of the **PARENTAL APPEALS PANEL** will be held remotely via **MICROSOFT TEAMS** on **THURSDAY 25 JUNE 2020 at 2.00 pm**

JULIA MCAFEE
Chief Officer - Governance
Clerk to the Council

15 June 2020

B U S I N E S S

1. **SUMMARY OF PARENTAL APPEALS PANEL POWERS AND PROCEDURES** (Pages 1 - 6)

- E2.** **PARENTAL SUBMISSION** (Pages 7 - 14)
(para 3)

- E3.** **EDUCATION SUBMISSION** (Pages 15 - 106)
(para 3)

Note: Any Agenda item which has the prefix 'E' is not for publication in terms of the paragraph(s) indicated of Schedule 7A of the Local Government (Scotland) Act 1973. The press and public will be excluded during consideration of the items so marked.

(For further information contact – David McDougall, 01786 233068)

THIS RELATES
TO ITEM 1
ON THE AGENDA

Summary of Parental Appeals Panel Powers and Procedures

SUMMARY OF PARENTAL APPEALS PANEL POWERS AND PROCEDURES

Appeal against Refusal of a Placing Request

An appellant is either a parent/carer of a pupil, or a young person i.e. a pupil over school age who has not yet attained the age of 18 years.

1. Grounds for Refusal of a Placing Request

A request for a place at a school can be refused by the Education Authority if granting the request would:-

- (i) make it necessary for the authority to take an additional teacher into employment;
- (ii) give rise to significant expenditure on extending or otherwise altering the accommodation at or facilities provided in connection with the school;
- (iii) be seriously detrimental to the continuity of the child's education;
- (iv) be likely to be seriously detrimental to order and discipline in the school;
- (v) be likely to be seriously detrimental to the educational well-being of pupils attending the school;
- (vi) assuming that pupil numbers remain constant, make it necessary, at the commencement of a future stage of the child's primary education, for the authority to elect either to create an additional class (or an additional composite class) in the specified school or to take an additional teacher into employment at that school;
- (vii) though neither of the tests set out in sub-paragraphs (i) and (ii) above is satisfied, have the consequence that the capacity of the school would be exceeded in terms of pupil numbers;
- (viii) if the education normally provided at the specified school is not suited to the age, ability or aptitude of the child;
- (ix) if the education authority have already required the child to discontinue his attendance at the specified school;
- (x) if, where the specified school is a special school, the child does not have additional support needs requiring the education or special facilities normally provided at that school;
- (xi) if the specified school is a single sex school (within the meaning given to that expression by section 26 of the Sex Discrimination Act 1975) and the child is not of the sex admitted or taken (under that section) to be admitted to the school; and
- (xii) where the acceptance of a placing request in respect of a child who is resident outwith the catchment area of the specified school would prevent the education authority from retaining reserved places at the specified school or in relation to any particular stage of education at the school.

Only one ground needs to exist for the Education Authority to refuse a placing request, but more than one ground may apply.

Even if any of these reasons for refusal exist the Education Authority may still choose to place the pupil in the specified school.

PROCEEDINGS

1. Committee

Appeals are heard by an appeal panel (the "Panel") whose membership is drawn from the following three categories:-

- (a) Stirling Council Elected Members - chosen on a rota basis;
- (b) parents with pupils at schools - each Headteacher is asked to nominate a parent willing to serve on the Panel on a rota basis; and
- (c) persons having experience in education or acquainted with the educational conditions of the area. People in this category are appointed by the relevant Committee of Stirling Council

The Panel must consist of three, five or seven members. The Chair of the Panel will not be an elected member. The proceedings will be in private.

The membership of the Panel changes for each hearing.

2. Hearing

You have the right to be present at the hearing and to ask someone to represent you. You can be represented by a lawyer, a trade union representative or anyone you like

If you wish to go to the meeting you can be accompanied by up to three friends which number includes the person representing you.

You may also put a written statement to the Panel. The Panel will have your written letter of appeal before them. In addition, you can also add further material. If you wish the Panel to have this material before the meeting please submit this to the Chief Officer - Governance at least ten days before the hearing. Written material can also be presented on the day if the Chair agrees to this. This is in addition to you appearing personally if you so wish.

You may allow your case to rest on your written statement if you choose to do so.

3. Procedure at Hearing

1. An officer will present the case for the Education Authority and may call evidence from witnesses if they choose.
2. You or your representative can then ask the Officer and their witnesses questions.
3. You or your representative will have the opportunity to present your case and can call evidence from witnesses if you choose.
4. The officer for the Education Authority may ask you or your representative or your witnesses questions about your case.
5. The officer for the Education Authority will sum up the Education Authority's case.
6. You or your representative will sum up your case.

At any time any member of the Panel may ask questions and the conduct of the hearing will be in the hands of the Chair of the Panel. The Chair has the right to disallow any question or address and permit or disallow any documents to be produced at the hearing.

4. **Persons Present at the Hearing**

The law permits only a certain number of people to be at a hearing. The Education Authority will be represented and will bring such witnesses as they wish. As mentioned before you can appear personally and/or be represented and can be accompanied by up to three friends including the person representing you. Apart from these people, the law permits the Chair to allow observers to be present. These observers may be either an Elected Member or an Officer of the Education Authority, someone who is attending for the purpose of training or an officer of Education Scotland. A Member of the Scottish Committee of the Council of Tribunals can also be present as an observer.

5. **Exchange of Information Prior to the Hearing**

Both the Education Authority and you will have the opportunity to present written evidence prior to the hearing. If either party wishes to do so then this evidence should be submitted to the Chief Officer - Governance at least ten days before the date of the hearing, and a copy will be sent to the other party. Either party may present oral evidence at the hearing.

6. **Combined Hearing**

Two or more hearings can be combined where a Panel consider that matters appealed against are the same.

For example in the case of appeals against refusal of placing requests a combined hearing would be appropriate where such requests were for the same stage at the same school and the requests had been refused for the same reasons.

In the case of appeals against exclusion from school there can be a combined hearing where there are two or more exclusions from the same school for the same reason.

The procedure at a combined hearing will be as described earlier but each appellant will be given the opportunity to speak to the Panel without the other appellants being present.

7. **Decision**

Once the Panel has heard all the evidence the Chair will tell those present whether a decision will be announced at the conclusion of the hearing or whether the decision will be provided in writing to parties at a later date. If the decision is to be provided later, the Panel must give their written decision within 28 days of the date of the hearing.

The Panel may either

- (i) confirm the decision of the Education Authority if they are satisfied that the ground(s) for refusal exist **and** that in all the circumstances it is appropriate to do so; or
- (ii) refuse to confirm the decision of the Education Authority.

If the decision of the Panel is to confirm the Education Authority's decision then there is a further right of appeal and this time the appeal will be to the Sheriff. You will be advised of your appeal rights in more detail in the decision letter.

8. Deemed Decisions

The decision of the Education Authority will be deemed to be upheld in the following circumstances:-

- (i) if there is no hearing within 4 months of receiving your letter of appeal; or
- (ii) if the Panel do not fix a date for the hearing to continue within 14 days after an adjournment; or
- (iii) if the Panel do not give their written decision within 28 days of the conclusion of the hearing.

In these circumstances the appellant will have a right to appeal to the Sheriff and such an appeal must be made within 28 days of the decision becoming a deemed refusal.