

SPSO decision report

Case: 201609423, Dumfries and Galloway Council
Sector: local government
Subject: primary school
Decision: upheld, recommendations

Summary

Mrs C submitted a request to withdraw her children from primary school with the intention of home educating them. Around two weeks after Mrs C submitted her request, an incident occurred with one of her children and a playground assistant which Mrs C reported to the police. Following this, a concern was raised about Mrs C's wish to home educate her children. A referral was made to the Children's Reporter (CR) and as a result, consent to withdraw the children from the school roll was withheld for some six months. The CR concluded that grounds for referral were not met and consent to withdraw the children from school to home educate them was eventually granted.

Mrs C complained that the depute head teacher failed to follow the appropriate policy and procedures in respect of the recording of physical intervention, after the incident involving the playground assistant. The council's policy on physical intervention states that this should be used only as a last resort when all other strategies have been exhausted. It may be used to de-escalate or prevent a violent or potentially violent situation but must not be used to enforce discipline or compliance. We found that the use of physical intervention was not justified in terms of the policy, and the council should have recorded the incident. We upheld this aspect of Mrs C's complaint.

Mrs C also complained about the referral to the CR. She was referred on care and protection grounds, namely that her children were absent from school without reasonable excuse. Mrs C said that the council pursued non-attendance even though national guidance states that in most cases it would be inappropriate to initiate or pursue non-attendance procedures in respect of a child awaiting consent to be withdrawn from school. It was unclear from the evidence whether the referral to the CR came from police or the council (as both were involved), but there was evidence that the council encouraged the police to make a referral on the grounds of the children being absent from school without reasonable excuse, despite what the guidance said in this regard. The council were aware of Mrs C's reasons for keeping the children away from school after the incident with the playground assistant. We considered that the council's referral to the CR (or their involvement in the referral) was unreasonable given that it was made in the knowledge that Mrs C had a legitimate reason for the children not attending school. We upheld this aspect of Mrs C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mrs C for failing to follow their policy in respect of the use of physical intervention, and in particular for failing to record the incident. The apology should meet the standards set out in the SPSO's Guidance on Apology <https://www.spsso.org.uk/leaflets-and-guidance>.
- Apologise to Mrs C for their role in the referral to the CR, given she had a reasonable excuse for the children not attending school because she intended to home educate them, and there were no child protection concerns. The apology should meet the standards set out in the SPSO's Guidance on Apology <https://www.spsso.org.uk/leaflets-and-guidance>.

What we said should change to put things right in future:

- Staff at the school should understand the policy and know reporting requirements in relation to the use of physical intervention and restraint.
- The council should have a working knowledge of the terms of their policy in relation to home education. They should be clear about the procedures in place for sharing information about families.