



DECISION

Date of Birth: 2015
Appeal of: The Parents
Type of appeal: ALN, IDP & LA maintain
Against Decision of: The Local Authority

1. There are three elements to this claim (p13), which is dated 2022.
 - a. does the Child have additional learning needs
 - b. is an IDP necessary and
 - c. ought that IDP be the responsibility of the local authority.
2. The first of these was agreed by the Local Authority Complex Case Panel in 2022, which is confirmed in the local authority's case statement dated 2023.
3. The need for an IDP and the management of it, have now been conceded by the local authority. I have sight of an e-mail sent today by Solicitors, the solicitors for the local authority, confirming that concession. The contents of the Child's IDP are now a matter for discussion between the parents and the local authority, and do not form any part of the dispute before us. There are now no outstanding issues in the case.
4. An appeal which is not withdrawn must be closed by the panel and regulation 23 of the Education Tribunal for Wales Regulations 2021 applies. Regulation 23(1) provides that

“The tribunal panel may determine the appeal ... without a hearing or by holding a hearing if

(b) the local authority states in writing that it does not resist ... the appeal”.
5. Where a panel determines an appeal without a hearing it must do so on the basis of the documentation already received.
6. In light of the local authority's concession, it would be disproportionate to proceed with an attended hearing. The attendance of the parties would serve no purpose and the local authority would be put to the additional expense of legal representation. My understanding is that the parents will not be legally

represented but in any event, they would be caused inconvenience as indeed would the local authority and its witnesses.

7. In the circumstances I am satisfied that the case should be dealt with on the papers. Having so decided, I am also satisfied that I should take a purposive approach to the regulations. The overriding objective requires me to deal with the matter fairly and justly which includes taking a proportionate approach to the importance of the case and the complexity of the issues. The case is of course important to the Child, the parents and the local authority, but there are no issues remaining. Convening a hearing would be disproportionate.

8. Regulation 23(1) refers only to decisions by the tribunal panel.

9. The general power to determine an appeal without a hearing is found in regulation 39 and provides at sub-paragraph 1 that:

“The President or the tribunal panel may determine the appeal or the claim or any particular issue without a hearing ...

(b) in the circumstances described in regulation 23 before making a determination under paragraph (1) the President or tribunal panel must consider any representations in writing already submitted by the parties (for the purposes of this regulation the appeal application or the claim application and the parties case statements are treated as representations in writing)”.

10. Regulation 39 refers only to the President or the panel, however regulation 68 (1) provides that

“A Chair may exercise any function which these regulations require or authorise the President to do.’

11. I am satisfied that this is within my powers to determine this matter, and also that I should do so now. It cannot be in the interests of the parties, or the Child, or indeed the public purse, to convene a hearing which will be simply a formality.

AND it is ordered that:

12. This case is closed on the basis that the local authority concede that the Child has additional learning needs, that it is necessary for them to have an IDP and that they, the local authority, will be responsible for the administration of that IDP.

13. The hearing listed for May 2023 is vacated.

14. Any party wishing to make an application to set aside or vary this order must do so by 1.00 p.m. May 2023.

Dated May 2023