

The case of the schoolboy rowers

Two St Bede's schoolboy rowers were alleged to have breached airport security in Auckland by riding on the baggage carousel into a secure area. Airport security and the police investigated and issued each boy with a warning.

The school's head rowing coach reported the incident to the school and in accordance with an agreement signed by the boys and their parents they were disciplined by being removed from the team to compete at the Maadi Cup inter-school rowing regatta.



LEGAL MATTERS

ALAN KNOWSLEY

RAINEY COLLINS LAWYERS

The boys' parents obtained an interim injunction that allowed the boys to compete in the regatta

pending a full hearing of the parents' challenge to the disciplinary action.

Much has been said on social media about the legal action taken by the parents, but what did the judge actually say in the court's decision?

- ¶ 1. This was an interim decision and it did not imply the school's actions were incorrect.
- ¶ 2. There was a possibility that the school had failed to provide proper process.
- ¶ 3. The school decided on the disciplinary outcome based on the

report of someone not present at the incident.

¶ 4. It may not have allowed the boys (or parents) any opportunity to be heard on the alleged misbehaviour.

¶ 5. It may not have taken into account all information to assess whether the punishment was proportionate to the alleged misbehaviour, such as the consequences of the disciplinary action and its effect on other team members, parents and sponsors.

¶ 6. The granting of the injunction was to preserve the position as far as possible of the boys, the school and innocent third parties.

If an injunction was not granted the boys could not compete and that would have permanent and final consequences, whereas other disciplinary consequences can still be imposed, if appropriate, after further investigation.

The full facts will not emerge until there is a substantive hearing, but on the limited information available, the possible faults of the school were ones of process rather than substance.

Getting the disciplinary process right in the education setting (just as for employment or professional matters) is the foundation of upholding decisions reached.

The school had to act quickly, because the regatta was to start in a couple of days, but appeared to have possibly jumped to a conclusion and skipped the investigation and response to the allegations steps.

▶ GOT A QUESTION?

Column courtesy of Rainey Collins Lawyers, phone 0800 733484.

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That left its decision vulnerable to the parents' challenge.

If the school had given the other witnesses, the boys and their parents an opportunity to have input before reaching a disciplinary conclusion and had imposed a penalty proportionate to the misbehaviour, it is far less likely a court would intervene in the disciplinary process.

The boys and parents had signed an agreement that pupils could be sent home if they broke school rules or society's laws.

In this case the school rules and aviation laws were very clear.

(Unlike the much-publicised haircut case last year when the school rule was so unclear no parent could interpret them and ensure their child complied and there was evidence that the rule had not been broken at all. The pupil's hair, when tied up, was clear of the collar, out of the eyes and of a natural colour.)

In the rowing case, both boys went on to compete, but neither was selected to go further at a national level.

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