

Meeting of the Council – 12th October, 2009

Joint Report of the Director of Children’s Services and the Interim Director of Law, Property and Human Resources

Appeals Panel (Children’s Services Transport)

Purpose of Report

1. To consider the appointment of an Appeals Panel to determine appeals and complaints relating to the Transport Service administered by the Directorate of Children’s Services.

Background

2. The Directorate of Children’s Services administer the Council’s transport policies relating to home to school transport and home to school/college post 16 transport. These policies make provision for an appeals process against decisions taken by officers.
3. In May 2009, the Parliamentary Under Secretary of State for Schools and Learners wrote to each Director of Children’s Services. In the letter it was stated that the Government was currently legislating in the Apprenticeships, Skills, Children and Learning Bill to specify that young people should be consulted in the drawing up of transport policy statements, to ensure that complaints about transport policies can be heard locally. Authorities are being encouraged to ensure that their Transport Policy Statement follows good practice by setting out how young people or parents can raise any complaints about the post 16 transport policy with the local authority. This means that the local authority will no longer be able to rely on colleges and sixth form institutions to carry out their own appeals procedures under their individual policies as there will be a requirement for an overarching standard policy.
4. The Education Act 1996, the Education and Inspections Act 2006 and associated guidance directs that local authorities should have in place a “robust” appeals procedure for parents to follow should they have cause for complaint concerning the eligibility of their child for travel support relating to home-to-school transport.
5. The Council’s existing appeals process needs to be reviewed to provide for an appropriate level of independence in decision-making, to ensure transparency and to allow the opportunity for appropriate parental representation. A more robust appeals mechanism will minimise the risk of appeals being legally challenged. Based on previous experience, approximately 12 appeals are currently received and determined per annum.

6. The Council is recommended to establish an Appeals Panel comprising 3 elected Members with a terms of reference as follows:
 - (a) To hear and determine all appeals against a decision of the Directorate of Children's Services to refuse to provide home to school transport.
 - (b) To hear and determine all appeals against a refusal of the Directorate of Children's Services to alter or vary an existing home to school transport service.
 - (c) To consider and make determinations on complaints that cannot be settled by Officers in relation to the various transport issues administered by the Directorate of Children's Services.

Finance

7. The ongoing costs involved with servicing the Appeals Panel will be met from existing resources within the Directorates of Children's Services and Law, Property and Personnel. The Director of Children's Services will arrange internal training for Members who are appointed to serve on the Panel.

Law

8. The provisions relating to School Transport are contained in the Education Act 1996, the Education and Inspections Act 2006 and associated guidance. The Council has discretion to determine its appeal process, however, the process must be "robust" in accordance with the guidance received.
9. The Appeals Panel will have delegated decision-making powers and will have the status of a Committee established by the Council. The power to appoint Committees and to delegate functions to Committees and Officers is set out in Sections 101 and 102 of the Local Government Act, 1972. As such, the rules on political proportionality in the Local Government and Housing Act 1989 would apply. However, if it so wishes the Council may resolve not to apply the proportionality rules, but such a resolution must be passed with no member of the Council voting against it (Section 17 of the 1989 Act).
10. The Council's Procedure Rules, as set out in the Constitution, will apply to the Appeals Panel as they apply to all other Committees of the Council. The relevant statutory provisions regarding the Council's Constitution are contained in Part II of the Local Government Act, 2000 together with Regulations, Orders and Statutory Guidance issued by the Secretary of State.

Equality Impact

11. This report has no direct implications for the Council's policies with regard to equality and diversity. However, owing to the nature of its business, decisions taken by the Appeals Panel will have implications for individual families, children and young people.

Recommendations

12. It is recommended:-

- That an Appeals Panel (Children's Services Transport) be established, comprising three elected Members to be appointed by the Council, with the terms of reference set out in paragraph 6.
- That the Council confirm that the proportionality requirements of the Local Government and Housing Act 1989 shall not apply to the Appeals Panel for the remainder of the 2009/10 municipal year.
- That the Director of Children's Services be authorised to make any necessary amendments to the Council's existing transport policy documents to make reference to the revised appeals process.
- That the Interim Director of Law, Property and Human Resources be authorised to make any consequential amendments to the Council's Constitution arising from this report.



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Mark Wyatt
Director of Children's Services

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Philip Tart
**Interim Director of Law, Property and
Human Resources**