

## **Report of the Interim Strategic Director Children's Services to the meeting of Regulatory and Appeals Committee to be held on 11 April 2019**

---

**Subject:**

**AS**

**School Transport Appeals Process**

### **Summary statement:**

**This report seeks the approval of the Regulatory and Appeals Committee to implement a change to the School Transport Appeals from a Member Appeals Panel to a Senior Officer Appeals Panel.**

---

Jenny Cryer  
Assistant Director, Performance,  
Commissioning and Partnerships,  
Children's Services

**Portfolio: Education, Employment and Skills**

Report Contact: Paul Hart, Policy Officer  
Phone: (01274) 439347  
E-mail: [paul.hart@bradford.gov.uk](mailto:paul.hart@bradford.gov.uk)

**Overview & Scrutiny Area: Children's Services**

## **1. SUMMARY**

This report seeks the approval of the Regulatory and Appeals Committee to implement a change to the School Transport Appeals from a Member Appeals Panel to a Senior Officer Appeals Panel.

## **2. BACKGROUND**

- 2.1 The Department for Education (DfE) Guidance Home to School Travel and Transport dated July 2014 provides that local authorities should have in place appeals procedures for parents to follow should they wish to appeal about the eligibility of their child for school travel support. It also recommends that local authorities should adopt the appeal process set out in Annex 2 of the Guidance. The Council's current review and appeal process reflects this guidance.
- 2.2 The Guidance sets out a two-stage process. Stage one is a review by a senior officer. Stage 2 is a review by an independent appeal panel.
- 2.3 The Guidance provides that independent appeal panel members should be independent of the original decision-making process (but are not required to be independent of the local authority). They are required to be suitably experienced (at the discretion of the local authority). The constitution of the stage two appeal panel is not prescribed in guidance or statute.
- 2.4 The Council's Constitution at 8.6.1 provides that the Regulatory and Appeals Committee shall determine appeals in relation to education maintenance allowances (EMA's) and to make recommendations to Education Bradford in the case of reviews for free school transport and assistance with transport to and from schools and colleges.
- 2.5 Education Maintenance allowances were abolished in 2011 and Education Bradford ceased to exist in 2011 when education services were brought back under the control of the Council. These outdated references need review but the Education Appeals Panel continues as a subcommittee of the Regulatory and Appeals Committee to hear appeals from parents who wish to appeal about the eligibility of their child for travel support.
- 2.6 Article 8.7.4 of the Constitution provides that the Education Appeals Panel shall comprise of three elected members and that the quorum shall be two.

## **3. CONSIDERATIONS**

- 3.1 At present the Education Appeals Panel consists of three elected members. It is proposed to change this to an officer panel made up of 3 senior officers (4<sup>th</sup> tier and above). These would be officers not previously involved in the decision making process of school/college travel assistance applications.
- 3.2 The current DfE statutory guidance provides that Stage 2 appeals should be reviewed by an independent appeal panel (it is not prescriptive about whether this panel should be members or officers) however the latest draft guidance dated November 2018 from the DfE (not yet formally issued) includes recommended

wording that Stage 2 panels should now be made up of three senior council officers.

- 3.3 The delegation to officers will achieve a saving of the member's allowance of £7,411 in respect of the Chair of the Panel's Special Responsibility Allowance. Any time saved by officers involved in the appeal process will be redirected to where their team lack capacity. Training officers and convening appeal hearings will be streamlined because dates will be set a year in advance and placed into officer diaries for the full year
- 3.4 The Council's Constitution will need to be amended if the member panel is replaced by an officer panel to delete reference to education appeals in Article 8.6.1 and to the Education Appeals Panel in Article 8.7.4 A recommendation should be made to Council to adopt the proposed amendments to the Constitution.

### **OTHER CONSIDERATIONS**

- 3.6 Any change to the appeal arrangements made by the Council requires a change to the Council's Home to School Travel and Transport Policy for Children of Compulsory School Age and the Post 16 Transport Policy Statement to reflect the change to a panel of senior officers rather than three elected members. Council's should consult on any proposed changes to their policies with interested parties. Consultation should last for at least 28 days working days during term time.
- 3.7 The Council carried out a period of consultation in relation to proposed changes to their school transport policies, between 28 January and 15 March 2019. There were eight responses to the consultation, one Member agreed that a change to an officer's panel was correct while two Members disagreed with the proposal, two head teachers agreed with the proposal and two public responses disagreed. The remaining responses neither agreed nor disagreed making comments and raising questions. A summary of responses can be seen in Appendix 1.
- 3.8 A question from a Member enquired as to how other local authorities conducted their school transport appeals. A DfE email list was used to ask other Authorities how they carried out their appeals. Of the responses received ten used member panels, twenty-one had officer panels, one currently had an officer panel but was looking to change to elected member led, three had a mix of officers and member panels and four used their School Admission Appeals panel to carry out transport appeals. A full breakdown can be seen in Appendix 2.
- 3.9 The Executive is responsible for decisions that give effect to policies. Under the Council's Constitution Article 14.20 Directors have authority to take decisions in relation to the Executive's functions within their area of responsibility.
- 3.10 Therefore in accordance with Article 14.20.3 the Interim Strategic Director Children's Services having consulted with the Executive Portfolio Holder could take the decision to implement changes to the Council's policies following approval to amend the Constitution. The decision will be recorded in accordance with the provisions in the Council's Constitution.

- 3.11 This is not considered a controversial change to policy as it does not withdraw any benefit from parents and these changes could be introduced for the current financial year
- 3.12 Local authorities have to publish annually their appeals process on their web site, alongside the transport policy and the transport statement for post 16 students. The Post 16 Transport Policy Statement must be published by the end of May each year. Parents make school and college choices, based on amongst other things a council's home to school transport arrangements.

#### **4. FINANCIAL & RESOURCE APPRAISAL**

- 4.1 A saving of £7,411 in respect of the Chair of the Panel's Special Responsibility Allowance would be achieved by changing to an officer appeal panel.

#### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

There are no significant risks arising out of the implementation of this recommendation.

#### **6. LEGAL APPRAISAL**

- 6.1 Local authorities must publish general arrangements and policies in respect of home to school travel and transport for children of compulsory school age. It should also set out clearly how parents can hold local authorities to account through their appeals processes and publish this on their website.
- 6.2 Local authorities should have in place both complaints and appeals procedures for parents to follow should they have cause for complaint about the service, or wish to appeal about the eligibility of their child for travel support. The procedure should be published alongside the local authority travel policy statement.
- 6.3 DfE Guidance previously left it to local authorities to determine how their appeals procedures should operate in practice. In 2014 it introduced a recommended review/appeals process in the interests of consistency and in order to be both clearer and more transparent for parents and local authorities. It revised its guidance again in 2018 and produced a draft policy for local authorities to adopt which now advocates a senior officer appeal panel.

#### **7. OTHER IMPLICATIONS**

##### **7.1 EQUALITY & DIVERSITY**

- 7.1.1 The change to the travel assistance policies does not have any effect on equality issues.

##### **7.2 SUSTAINABILITY IMPLICATIONS**

- 7.2.1 There are no sustainability implications.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

7.3.1 There are no greenhouse gas emission impacts.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

7.4.1 There are no community safety implications.

### **7.5 HUMAN RIGHTS ACT**

7.5.1 There are no Human Rights implications.

### **7.6 TRADE UNION**

7.6.1 There are no Trade Union implications.

### **7.7 WARD IMPLICATIONS**

7.7.1 There are no Ward implications.

### **7.8 AREA COMMITTEE ACTION PLAN IMPLICATIONS (for reports to Area Committees only)**

7.8.1 There are no Area Committee Plan implications.

### **7.9 IMPLICATIONS FOR CORPORATE PARENTING**

7.9.1 There are no implications for Corporate Parenting.

### **7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

7.10.1 There are no data protection issues regarding this proposal/decision.

## **8. NOT FOR PUBLICATION DOCUMENTS**

None

## **9. OPTIONS**

9.1 Replace the elected member education appeal panel by a panel of senior officers to consider appeals in relation to school transport assistance at Stage two of the Council's appeal process.

9.2 Retain the current elected member education appeal panel to consider appeals in relation to school transport assistance at Stage two of the Council's appeal process.

9.3 That an appeal panel similar to the Independent Admission Appeals Panel is formed to hear school transport assistance appeals.

9.4 All three options would necessitate legal training of panel members and the governance of the Committee Secretariat Service. Option 9.3 is not a viable option

in Bradford given the number of school admission appeals heard and the depleting number of admission panel members who are volunteers. The Local Authority must appoint an Independent admission appeal panel under education legislation. There is difficulty in recruiting and retaining panel members for school admission appeals. Needing two sets of lay panel members may lead to a shortage of panel members for both hearings. Timing would also be an issue as the majority of school admission appeals are heard in the summer months which coincides with the peak in school transport appeals before the start of the academic year. The current admission appeal members would not have capacity to hear transport appeals as well as admission appeals in the summer.

## **10. RECOMMENDATIONS**

- 10.1 That the option to replace the Education Appeals Panel with a senior officer appeals panel for school transport assistance be approved.
- 10.2 That the Committee recommends to Council:
- (i) That the elected member Education Appeals Panel for school transport assistance be abolished and appeal decisions be delegated to the Strategic Director, Children's Services.
  - (ii) That the proposed amendments to the Constitution as set out in paragraph 3.4 of the report be adopted.
  - (iii) That the City Solicitor be granted delegated authority to make consequential amendments to the Constitution.

## **11. APPENDICES**

Appendix 1 – Responses from the appeals consultation

Appendix 2 - Response table regarding how the L.A. conducted school transport appeals

## **12. BACKGROUND DOCUMENTS**

Home to School Travel and Transport Policy for Children of Compulsory School age 2015

Post 16 Transport Policy Statement 2018 – 2019

Home to school travel and transport guidance - Statutory guidance for local authorities

## Appendix 1: Responses from the Appeals Consultation

<b>Respondent</b>	<b>Agreement with change</b>	<b>Comments</b>
Members	Agreement (1) Not agree (2)	Difficult to maintain continuity due regular change. Senior officers could make more independent decisions. Do not agree that senior officers will be more independent. There are still many authorities that use Members for appeals. More training for Members would be appropriate.
Headteachers	Agreement (2)	None
Public response	Disagreement (2)	It is important that elected Members continue to hear appeals. Proposed changes will be seen as removing scrutiny from the process.

**Appendix 2 – Response table regarding how the L.A. conducted school transport appeals**

<b>Local Authority</b>	<b>Type of transport appeals</b>
Southwark	independent assessor
Wakefield	Members
Worcestershire	Members
Torbay	Members
West Berks	Members
Peterborough	Members
Oxfordshire	Members
Cambridgeshire	Members
York	Members
Solihull	Members
Kirklees	Members / considering changing
Leeds	Officer
Calderdale	Officer
Sunderland	Officer
Bromley	Officer
Stoke	Officer
Milton Keynes	Officer
Lincolnshire	Officer
Trafford	Officer
South Gloucester	Officer
Norfolk	Officer
Stockport	Officer
Bury	Officer
Northumberland	Officer
Merton	Officer
Walsall	Officer
Barking and Dagenham	Officer
South Tyneside	Officer
Nottingham City	Officer
Westminster	Officer
Islington	Officer
Southampton	Officer - changed from member led 2017
Northamptonshire	Officer chaired with one member
Derbyshire	Officer led at present but looking to change to member led
Salford	One officer 2 members
Barnsley	School admission appeal panel
Harrow	School admission appeal panel
Manchester	School admission appeal panel led by officers
Tower Hamlets	School admission appeal panel
North Somerset	One member and four officers