

## Report of the City Solicitor to the meeting of Executive to be held on 6 April 2021

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### **Subject:**

**School Admission Appeals Panel Members**

### **Summary statement:**

**To consider whether to compensate School Admission Appeals Panel members for the time and expense involved in undertaking this function and if compensation is to be provided the type and amount of compensation to be provided.**

### **EQUALITY & DIVERSITY:**

There are no direct implications for equality and diversity arising from this report. However, offering some sort of recompense to School Admission Appeals Panel Members should assist with attracting members with differing backgrounds and experience.

This report has not been included on the published forward plan as an issue for consideration, however, the decision sought is not a key decision as defined in the Council's Constitution. As it is impractical to defer the decision until it has been included in the published Forward Plan the report is submitted in accordance with paragraph 10 of the Executive Procedure Rules set out in the Council's Constitution.

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## 1. SUMMARY

To consider whether to compensate School Admission Appeals Panel members for the time and expense involved in undertaking this function and if compensation is to be provided the type and amount of compensation to be provided.

## 2. BACKGROUND

- 2.1 The School Admissions (Appeals Arrangements) (England) Regulations 2012 (“the Regulations”) together with the School Admission Appeals Code (“the Code”) set out the arrangements for appealing against decisions allocating a school place. In April 2020 the Regulations were temporarily amended to give admission authorities, local authorities and appeals panels some flexibility in dealing with appeals during the coronavirus pandemic. (The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2020.) These 2020 Regulations in certain circumstances allowed appeal hearings to be heard by telephone or video conference or to be decided on the basis of written submissions only. These 2020 Regulations were due to expire on 31 January 2021. As the coronavirus restrictions continue the Regulations have been extended so that the temporary arrangements now apply until 30 September 2021. (The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021.)
- 2.2 The School Admission Appeals Code (“the Code”) was issued under Section 84 of the School Standards and Framework Act 1998. The Code came into force on 1 February 2012. It applies to admission appeals for all maintained schools in England. Academy Schools and Free Schools are also required to comply with the Code.
- 2.3 Under section 94 of the School Standards and Framework Act 1998, responsibility for making arrangements for appeals against the refusal of a school place rests with the admission authority of the School. The Council is the admission authority for community schools and voluntary controlled schools. The Academy Trust is the admission authority for academy schools and the Governing Body is the admission authority for foundation and voluntary aided schools. The admission authorities of foundation and voluntary aided schools and academy schools may ask another body to carry out some or all of their admissions functions on their behalf. The Council administers appeals against decisions allocating a school place for a number of academy schools and voluntary aided schools in the District. This arrangement assists the Council in fulfilling its wider responsibilities in relation to pupils’ education and welfare.

### **Composition of the Independent Appeal Panel**

- 2.4 The admission authority, or the clerk to the appeal panel must appoint an independent appeal panel that is comprised of a chair and at least two other panel members.
- 2.5 A panel must consist of the following persons with at least one from each category:
  - a) lay people (someone without personal experience in the management of any school or provision of education in any school (except as a school governor or

in another voluntary capacity));

- b) people who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.
- 2.6. Admission authorities must ensure that panel members are independent and retain their independence for the duration of their service. A member of the local authority which is the admission authority or in whose area the school in question is located is disqualified from being a member of a panel.

### **Allowances for Independent Appeal Panel members**

- 2.7 Regulation 6 School Admissions (Appeals Arrangements) (England) Regulations 2012 (the Regulations) makes provision for payment of a financial loss allowance (loss of earnings) to admission appeal panel members under section 173(4) of the Local Government Act 1972.
- 2.8 Paragraph 1.15 of the Code states that Panel members:

*are eligible to receive travel and subsistence allowances and can also be compensated for any loss of earnings or any expenses, including child minding costs, which are necessarily incurred as a result of attending an appeal hearing or associated training. The rate of payment for community and voluntary controlled schools is set by the local authority which must have regard to the recommendations of its independent remuneration panel. The rate of payment for voluntary aided and foundation schools and Academies should be set by the respective governing body or Academy Trust with regard to the rate set by the local authority.*

### **3. CONSIDERATIONS**

- 3.1 As well as organising appeals for community and voluntary controlled schools the Council also arranges appeals for a number of academy schools and voluntary aided schools.
- 3.2 Members of school admissions appeals panels are volunteers. The Council currently has 44 panel members, however, some members sit much more frequently than others. All panel members receive training on the process and the Code.
- 3.3 The Council receives a high volume of appeals each year. From 1 April 2019 to 31 March 2020 the Council administered 1,095 appeals. Of these 241 were schools where the Council is the admission authority and 854 where the Council is not the admission authority (academy schools and voluntary aided schools). These appeals took place in person.
- 3.4 From 1 April 2020 to 4 March 2021 the Council heard 399 appeals of which 69 related to schools where the Council is the admission authority and 330 where the Council is not the admission authority (academy schools and voluntary aided schools). Since September 2020 there have been 42 days of appeals. Many more

appeals were received during this period but were cancelled due to parents withdrawing the appeals prior to the hearing. Due to the coronavirus pandemic these appeals have been heard remotely or on the basis of written submissions.

- 3.5 Many of the panel members are retired. As a consequence, the question of loss of earnings payments for attending appeals does not arise. When appeals take place in person the panel members are reimbursed for reasonable travel expenses and also are provided with refreshments. Whilst undertaking the hearings from home the panel members have not been receiving any payments or reimbursement of expenses.
- 3.6 It would be helpful for the Council to have a wider pool of panel members. A number of the current panel members sit on a regular basis. If any of these panel members decide they no longer wish to be members, the Council would have additional difficulties in arranging hearings.
- 3.7 A number of authorities pay an allowance to their school admission appeals panel members. For example, Kirklees Council pay an allowance as follows:
- For sitting 4 hours or over £116
  - For sitting under 4 hours £66

This allowance covers potential expenses, eg travelling, printing costs, etc. In addition, at face to face appeals Kirklees Council provides a light lunch and refreshments during the day.

Manchester Council pay £32.50 a day or pay reasonable travel expenses together with provision of a £10 café voucher for lunch.

Wakefield and North Yorkshire Councils do not pay an allowance but reimburse travel expenses.

Leeds Council usually reimburse reasonable expenses.

During the pandemic Calderdale Council have provided a £5 voucher per sitting. When the appeals are undertaken in person refreshments are provided.

## **RECOMMENDATIONS FROM THE INDEPENDENT REMUNERATION PANEL**

- 3.8 On 11 March 2021 the Independent Remuneration Panel were asked to:
- 3.8.1 consider whether vouchers to the value of £50 per day (vouchers to the value of £30 for sitting under 4 hours) should be provided to admission appeals panel members for community and voluntary controlled schools. Such provision of vouchers to be in addition to panel members being able to claim reasonable telephone expenses whilst the hearings are undertaken remotely and reasonable travelling expenses and the Council providing refreshments when the hearings are heard in person.

- 3.8.2 consider whether the provision of vouchers should be backdated to compensate for the challenges the panel members have faced whilst undertaking appeal hearings remotely or by way of written submissions, if the Panel recommends that vouchers be provided.

### 3.9 The Independent Remuneration Panel recommended:

1. The Council considers making available to school admission appeals panel members vouchers to the value of £50 per day (£30 for sitting under 4 hours) for appeals relating to community and voluntary controlled schools should the panel members wish to claim them.
2. In addition to the vouchers referred to in 1 above the Council considers reimbursing school admission appeals panel members for the reasonable telephone expenses incurred whilst the appeal hearings are undertaken remotely and reasonable travelling expenses and the provision of refreshments when the hearings are heard in person.
3. That the school admission appeals panel members be thanked for all they have done and continue to do. Acknowledging the significant workload and the challenges the panel members have faced whilst undertaking appeal hearings remotely during the Covid pandemic, the Council considers, as a token of recognition, when introducing a new voucher scheme that a £50 voucher be provided to each panel member.
4. That the Council recognises that school admission appeals panel members may have incurred expenses as a consequence of hearing the appeals from their own homes. Should any panel members approach the Council regarding reimbursement of reasonable expenses from September 2020 to the date the Council introduces a scheme, the Council should view such approaches favourably on a case by case basis. The Independent Remuneration Panel acknowledged that in implementing the above, the officers involved should be given some flexibility in this regard (to allow the issuing of vouchers in lieu of reimbursing actual expenses incurred) where due to the passage of time actual expense cannot be established.

## 4. FINANCIAL & RESOURCE APPRAISAL

It is difficult to assess the potential cost going forward as it will depend on the number of appeals received and heard and whether the appeals relate to community and voluntary controlled schools (where the Council is the admission authority and therefore would fund any compensation) or academy or voluntary aided schools where the Council is not the admission authority. However, from September 2020 to 8 March 2021 there have been 42 days of appeals covering all types of schools, namely where the Council is the admission authority and where it is not. If £50 per day was paid to each member of the admission appeals panel for those 42 days, it equates to £6,300.

Additionally, the Council has service level agreements (SLAs) with schools for the provision of services. The consequences and funding of providing the scheme as

outlined by this report will require examination in the context of those SLAs. For this reason, the introduction of any scheme is suggested to be delegated to the City Solicitor in consultation with the Leader and Portfolio Holder for Education, Employment and Skills, to include agreeing the financial consequences of decisions made.

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

Any risks arising out of the implementation of the proposed recommendations will be mitigated in consultation with the Leader and Portfolio Holder.

## **6. LEGAL APPRAISAL**

The majority of the legal issues are contained within the body of this report.

When reaching its decision Executive must have regard to the recommendations of the Independent Remuneration Panel but does not have to adopt them.

The rate of payment for voluntary aided and foundation schools and Academies should be set by the respective governing body or Academy Trust with regard to the rate set by the local authority.

## **7. OTHER IMPLICATIONS**

### **7.1 SUSTAINABILITY IMPLICATIONS**

None arising from this report.

### **7.2 GREENHOUSE GAS EMISSIONS IMPACTS**

Not applicable.

### **7.3 COMMUNITY SAFETY IMPLICATIONS**

Not applicable.

### **7.4 HUMAN RIGHTS ACT**

No issues arising from this report.

### **7.5 TRADE UNION**

No issues arising from this report.

### **7.6 WARD IMPLICATIONS**

No issues arising from this report.

## **7.7 IMPLICATIONS FOR CORPORATE PARENTING**

No issues arising from this report.

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

No issues arising from this report.

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

None

## **9. OPTIONS**

To adopt the recommendations of the Independent Remuneration Panel or to make amendments to the recommendations.

## **10. RECOMMENDATIONS**

Executive is requested to:

10.1 Consider the recommendations of the Independent Remuneration Panel and to either adopt them or make amendments to the recommendations.

10.2 Thank the members of the School Admissions Appeals Panel for all the work they have undertaken particularly with the added difficulties caused by changes to the process as a consequence of the pandemic restrictions.

10.3 Advise the Academy Trusts and Governing Bodies of Voluntary Aided Schools whose appeals the Council administers of the provisions of the Scheme the Council adopts, with a view either to their adopting the same or other suitable arrangements being made with them.

10.4 Delegate to the City Solicitor in consultation with the Leader and Portfolio Holder for Education, Employment and Skills the implementation of the Executive decision.

## **11. APPENDICES**

None.

## **12. BACKGROUND DOCUMENTS**

Report to the Independent Remuneration Panel 11 March 2021.