

**REVIEW OF ARRANGEMENTS FOR THE HERTFORDSHIRE
ADMISSION APPEALS SERVICE**

Report of the Director of Children's Services

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1. Purpose

- 1.1 To update the Forum on changes to the funding arrangements for the admission appeals service which are required in order to comply with new DfE guidance.

2. Summary

- 2.1 This paper sets out an initial outline of proposed changes to the funding of the admission appeals service and requests Schools Forum's comments on them.

3. Recommendations

- 3.1.1 The Forum is asked to note and comment on the issues set out in this paper and, in particular, the following:

- (i) that arrangements need to be changed so Hertfordshire County Council has a consistent system for funding the admissions appeals service, across both academies and maintained schools
- (ii) that, for the reasons outlined in section 5.4 of this paper, this consistent system would be achieved by charging both academies and maintained schools for the admissions appeals service
- (iii) that we implement the changes to the charging system from April 2020
- (iv) that a further report, with full details of the proposals, will be presented to Schools Forum in the Autumn.

- 3.1.2 The Forum is asked to support carrying forward the underspend on admissions in 2018-19 to support the appeals budget in 2019-20 as outlined in section 5.7.

4. Background

4.1 Statutory responsibilities of the LA regarding Admission Appeals

- 4.1.1 Under Section 94 of the Schools 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.
- 4.1.2 Hertfordshire County Council as an admission authority for community and voluntary controlled schools, must establish an independent appeals panel to hear the appeal. The panel decides whether to uphold or dismiss the appeal. Where a panel upholds the appeal, the school is required to admit the child.
- 4.1.3 The appeals function of foundation and voluntary aided schools and academies is the responsibility of the respective Governing Bodies or Academy Trusts. The Council remains responsible for ensuring those functions are carried out properly. These bodies may ask the Council to carry out the appeals function on their behalf and for the majority of schools in Hertfordshire this is the case.

4.2 Context and why the need for a review

- 4.2.1 The administration of the admission appeals process is undertaken by Hertfordshire County Council staff in our Appeals Service, within Customer services. (This is separate from the presentation of the case to appeals panels, which is undertaken by the Admissions and Transport service in Children's Services.)
- 4.2.2 The administration of appeals is currently provided free to maintained schools but is charged to academies (at a cost of £175 per appeal lodged). This arrangement reflects a historic position whereby academies received additional funding from the DfE to reflect the costs of managing admissions. Funding arrangements for academies have now changed with the ending of LACSEG/ESG top-ups. However, academies with larger numbers of appeals can still claim additional grant from the ESFA (equating to £180 per appeal heard above 20 if they have more than 20 appeals in a year). A small number of academies also receive protection funding relating back to their historic LACSEG/ESG funding.
- 4.2.3 The service for maintained schools is funded from the Central School Services Block (CSSB) of Dedicated Schools Grant.
- 4.2.4 Recent guidance from the DfE sets out that all schools and academies should be treated on the same basis in relation to appeals. Section 156.2 of the schools revenue funding operational guide 2019-20 states the following:
- 4.2.5 "Schools such as voluntary aided schools, foundation schools and academies, cannot therefore be charged for services that are provided free of charge to community and voluntary controlled schools, and paid for out of

the centrally held DSG. For example, although admissions appeals are not a duty that the local authority holds in relation to all schools, we would still expect all schools to be treated fairly and equitably by the local authority”.

- 4.2.6 Therefore, if a local authority uses a central budget to provide an admission appeals service without charge to community and voluntary controlled schools, they must also provide this service without charge to academies, voluntary aided schools and foundation schools, although these schools may instead choose to make their own, self-funded arrangements.
- 4.2.7 Alternatively, where local authorities do not have a central budget for the admission appeals service (and therefore effectively delegate funding for appeals to all schools and academies in their budget shares), they may charge the budgets of their community and voluntary controlled schools for the costs associated with administering admission appeals on their behalf. Academies, voluntary aided schools and foundation schools may also wish to buy into the appeals services provided by the local authority or can make alternative arrangements.
- 4.2.8 This was reported to the January Forum meeting and it was indicated that the Authority would undertake a review in order to identify a way forward that is consistent with DfE guidance.
- 4.2.9 In view of the prospective changes in the funding for admission appeals, in January the Forum agreed a £89,000 reduction in the DSG contribution to the budget for administration of appeals to balance the overall Central School Services Block budget.

5. Hertfordshire Admission Appeals Service

5.1 Overview

- 5.1.1 The Hertfordshire County Council Admission Appeals Service covers the clerking and administration of the Schools Appeals Process to ensure that the Authority can provide independent appeal panels to hear appeals for school places. Unlike many other local authorities, the Hertfordshire appeals service provides a fully comprehensive service, including providing clerks, arranging venues and dealing with queries from the ESFA and the Local Government Ombudsman. (Annex A of this paper sets out the service provided by the Hertfordshire Appeals Service). In contrast, some Local Authorities, for example, expect schools to provide the venues for appeals.

5.2 Quality of the Admissions Appeals Service

Internal audit of the Admission Appeals Service – good assurance

- 5.2.1 The council recently carried out an internal audit of the admission appeals service governance arrangements. Based on the work performed during this audit, internal audit can provide overall **good assurance**, *which is the highest level of assurance there is*, that there are effective controls in operation for governance, the appeal panels and hearings and

management information and reporting. The audit considered all aspects of the Appeals Service and contained no recommendations as a result of the work undertaken.

Local Government Ombudsman

- 5.2.2 Hertfordshire's Admission Appeals Service has a very low level of enquiries received from either the Education and Funding Skills Agency or the Local Government Ombudsman and none have been upheld which demonstrates high quality of service.

Extent of coverage by the HCC Appeals Service

- 5.2.3 Currently, out of all the Hertfordshire schools and academies, only ten have opted not to use the Hertfordshire County Council (HCC) Appeals Service. This high buy-in of service represents the value of the service. Of this total, four are secondary schools (three academies and one voluntary aided), two are UTCs and there are four primaries (all academies).
- 5.2.4 As part of this review, the Appeals Service emailed the headteachers of these ten schools and asked them the following questions:
- Do you have any school appeals?
 - If so, is the clerking and administration done within the school or do you purchase at external company?
 - How much does this service cost you?
 - Would you be interested in discussing how the HCC school appeals team and service could support you?
- 5.2.5 The Appeals Service received three responses:
- One secondary reported that they are happy as they are now, but they would consider the Appeals Service if their clerk decided to stop clerking
 - One primary doesn't currently have appeals but would be in contact if they needed to buy into the service
 - Another secondary reported that they have their own arrangements now but would be interested to hear about the service offered. Their costs vary from year to year, dependant on the number of appeals.
- 5.2.6 For the academic year 2017/18, there were a total of 1938 admission appeals lodged with the HCC Appeals Service. Of that total 409 were withdrawn, 371 places were offered and accepted and 1158 went before a full hearing. Please see table 1 below for the breakdown of these totals.

Table 1: Appeals total for academic year 2017/18

Overall stats for year	Appeals lodged	Appeals withdrawn	Places offered and accepted	Appeals heard
U11s appeals	835	198	187	450
Secondary appeals	1103	211	184	708
Total	1938	409	371	1158

Table 2 below shows the number of appeals lodged between the academic year 2013/14 through to 2017/18 for comparison purposes.

Academic year	2013/14	2014/15	2015/16	2016/17	2017/18
Number of appeals lodged	2141	2068	2036	2007	1938

5.3 The cost of the Appeals Service

5.3.1 The total cost of the Appeals Service, excluding ICT project work, is £516k per annum. This includes the costs of the appeals service staff, clerks, the hiring of the venues and other overheads for the service.

Table 3: Appeals service – costs of the service

Current cost of appeals service	£000
Staffing -appeals team	251
Staffing - clerks	80
Legal clerking	20
Hire of venues	40
Subsistence	9
Other	40
<i>Sub-total excluding overheads/recharges</i>	440
Overheads/recharges	76
Total including overheads/recharges	516

5.3.2 The service has a range of measures in place to ensure efficiency and value for money. These include a high percentage of appeals handled on-line, the grouping of appeal hearings and negotiated venue costs.

5.3.3 As mentioned above, currently the service is funded partly from DSG and partly from academy charges, as shown in Table 4 below.

Table 4: Appeals Service current funding 2019/20

Funding	£000
Allocation from DSG Central Services Block (not taking into account the £89k reduction in DSG funding)	310
Trading income from Academies	206
Total funding	516

5.3.4 It is proposed to make the following changes to this position.

a) ICT Project Work

5.3.5 Given the need to update the current ICT systems, another £30k would be added to the appeals service budget for ICT project work, providing a total of £546k per annum.

b) Exclusion and transport appeals

5.3.6 Although the great majority of appeals handled by the appeals service relate to admissions, there are also a number of exclusion appeals (approximately 20 a year) and transport appeals (approximately 50 a year).

5.3.7 Home to school transport is an HCC budget and it is therefore intended that the cost of transport appeals should be charged to the HCC budget.

5.3.8 Exclusion appeals are currently charged to academies (at the rate of £1,500 per appeal) and provided free to maintained schools. It is necessary to move to a consistent treatment of exclusion appeals across academies and maintained schools. Due to the high cost of exclusion appeals and their slightly different treatment in the DfE guidance, it is proposed that all exclusion appeals should be funded from the DSG central services block.

5.3.9 Thus, the revised financial model for the appeals service would be as follows:

Table 5 Proposed financial model for the appeals service

Funding	£000
Cost of the appeals service (including ICT project costs)	546
Funded by:	
Transport appeals – to be funded from HCC budget	6
Exclusion appeals – to be funded from DSG central services block	30
Admission appeals	510
Total funding	546

5.3.10 This review of the cost of the appeals service indicates that although academy appeals comprise more than half the total of all appeals, charges to academies only fund around 40% of the current costs. Thus, the central budget for appeals is in practice subsidising the cost of academy appeals.

5.4 Proposals for Change

5.4.1 In order to comply with the DfE's requirements for funding the administration of appeals, it is necessary either to fund all appeals from the central budget or to operate the appeals service on a traded basis for both academies and maintained schools. It is proposed to adopt the second option and charge all schools and academies for admissions appeals from April 2020 onwards, for the following reasons:

a) There is insufficient budget in the DSG Central School Services Block to provide an admissions appeals service without charge to all schools, regardless of whether they are maintained or academy.

b) The majority of appeals relate to academies, which already operate on a traded basis.

c) The DfE has indicated that if the Authority retains a central budget for the appeals service, academies with more than 20 appeals heard in a year will no longer be eligible to claim their additional funding from the ESFA. This would fall as an additional cost on Hertfordshire's Schools Budget.

5.5 Options for charging

5.5.1 From initial discussions with several other local authorities, two options for charging have been identified.

Option 1 -Charge per appeal lodged

5.5.2 This is the current basis on which Hertfordshire academies are charged. In order to recover the full cost of the service set out above, the charge per appeal lodged is estimated at £268.

Option 2- Differential charges to reflect whether an appeal is lodged, scheduled and heard.

- 5.5.3 A more complex approach would involve having a higher charge per appeal actually heard and lower charges for appeals which are arranged but then withdrawn and for those appeals which are lodged but not arranged. An illustration of the level of charges under this approach (informed by the differentials between the charges used in Surrey) is as follows:

	Cost	Cumulative cost
Charge per appeal lodged	£52	£52
Charge per appeal arranged and not heard	£131 (plus £52)	£183
Charge per appeal heard	£170 (plus £52 plus £131)	£353

- 5.5.4 It is intended to do more work benchmarking against other authorities as well as reviewing the costs of the Hertfordshire appeals service and the level of service offered.
- 5.5.5 Comparisons with other Local Authorities are however expected to be complicated by differences between the level of services provided and also the extent to which authorities cover the full cost of the service including recharges. For example, approximately 9% of the cost relates to providing venues and subsistence (which not all authorities do) and approximately 14% relates to recharges.
- 5.5.6 A more detailed charging proposal for the appeals service would be brought to the Autumn Forum meeting.

5.6 Admissions

- 5.6.1 The *Admissions Process Team*, which presents appeal cases for community schools and others who adopt LA rules (or substantially similar) is separate from the appeals service. However, the requirement to be consistent in funding across both maintained schools and academies also applies to presenting appeals. It is expected that the Autumn paper will also include proposals in respect of presenting appeals.

5.7 Appeals budget 2019-20

- 5.7.1 As mentioned above, a saving of £89k has been taken in the appeals budget in 2019-20 in the expectation that there would be an extension of charging for appeals in year during 2019-20. It is not now intended to make changes until April 2020 and therefore the saving in the budget in 2019-20 is not achievable.
- 5.7.2 It is therefore proposed to carry forward the underspend on the admissions budget in 2018-19 to fund the overspend on appeals in 2019-20.

6. Conclusion

- 6.1.1 The County Council, for the reasons set out in this paper is proposing that the central budget for the admissions' appeals service should be discontinued and that Hertfordshire should move to charging both maintained schools and academies for appeals from April 2020.
- 6.1.2 The County Council is considering consulting with schools in the Autumn about the possible charging options.
- 6.1.3 More detailed proposals for charging for the appeals service will be brought to the Forum in the Autumn.

Annex A – the Services

SERVICE SUMMARY

The central appeals clerking service provides the administration for the statutory process in relation to school admission appeals and exclusion reviews. The purpose of the service is to ensure an independent, impartial forum for parents and the admission authority to present their cases to an independent panel as required by law, the School Admission Appeals Code and DfE guidance “Exclusion from maintained schools, Academies and pupil referral units in England”

SERVICE DELIVERY

1. The Council shall provide the following services:

- (1) Overall administration of the appeals process, including parental guidance, appeal forms, notification of arrangements and outcome of appeal hearings with detailed reasons.
- (2) The services of independent clerks who have received comprehensive legal training to ensure that the requirements of the Appeals Code are met.
- (3) The organisation and payment for venues, including refreshments.
- (4) Annual training for panel members and regular review meetings for clerks and chairs.
- (5) Written briefings on changes to the Appeals Code, DfE circulars, reports on Ombudsman decisions and judicial review cases.
- (6) Response and advice to parents about decision letters.
- (7) Responses to Ombudsman enquiries following complaints from parents.
- (8) Payment of travel and subsistence expenses to panel members, including loss of earnings where appropriate.
- (9) Advertise and appointment of panel members.