

HERTFORDSHIRE COUNTY COUNCIL SCHOOLS FORUM

27 November 2019

AGENDA ITEM

10

PROPOSALS FOR CHARGING OPTIONS 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 proposed charges for *all* schools for the School Admission Appeals service (Administration) in order to comply with new DfE guidance from April 2020.

2. Summary

- 2.1 This paper sets out proposals for charging all schools from April 2020, regardless of status, for the administration of admission appeals service and seeks Schools Forum's support for these proposals.

3. Recommendations

- 3.1. The Forum is asked to agree the following recommendations:
- (i) that we commence charging maintained schools for administration of admission appeals from April 2020 at the same rate as for academies, in order to be compliant with DfE guidance, which states that all schools should be treated on an equivalent basis in the use of DSG,
 - (ii) that the charge per appeal lodged for all schools and academies will be £200 from April 2020 (an increase of £25 per appeal)
 - (iii) that transitional support is provided by retaining a budget of £138k for admission appeals within the Central Schools Service Block budget for the financial year April 2020 through to March 2021 to support the service working towards become fully traded by April 2021

- (iv) that Forum notes that a detailed review of the scope for also reducing the costs of the Admissions Appeals Team Service has started with a view to the service becoming fully traded in due course
- (v) that Forum supports the establishment of a working group, with school representation from schools that most use the service, to provide guidance and support to the review in developing the traded service.

4. Background

- 4.1 A paper about the review of arrangements for the Hertfordshire Admission Appeals Service was discussed at the June 2019 Schools Forum meeting, covering the administration of the appeals, not their presentation.
- 4.2 Forum was asked to note and comment on a number of issues set out in the paper and in particular; that a consistent system for funding across both academies and maintained schools should be introduced to ensure that Hertfordshire becomes compliant with DfE guidance; that we should charge both academy and maintained schools similarly on a traded basis; and that the changes should be implemented from April 2020.
- 4.3 In the discussion that followed several issues were raised including:
 - The costs and challenges of school hoppers (parents who appeal and gain a place at a school but then move their child onto another school)
 - The timing of appeals
 - Potential ways to reduce number of appeals
 - The costs of venues

These issues are addressed later in the content of the paper in section 6.

5. Benchmarking

- 5.1 Since June, officers have been in touch with a number of other local authorities in an attempt to carry out benchmarking work on the appeals service. Officers have tried to arrange a deep dive exercise regarding the costs and service provision. Only one authority has so far agreed, and officers visited a county in the south east in September. Officers are continuing to work with contacts in other LAs to see if we can undertake at least one other deep dive exercise with a different shire county council and preferably more than one.
- 5.2 Officers have been able to establish the current charges for appeals from some local authorities:

Table 1: Appeals costs

Local Authority	Charges
Herts	£175 per appeal lodged for academies
Buckinghamshire	£212 per appeal lodged
Coventry	£200 per appeal lodged
Essex	£165 per appeal heard
Kent	£100/£105 per appeal scheduled (primary/secondary)
Northamptonshire	£170 per appeal lodged
Reading	£200 per appeal lodged
Surrey	£301 per appeal heard, £168 per appeal arranged, £48 per appeal lodged)
Wokingham	£180 per appeal lodged

- 5.3 Benchmarking the costs of the service and service provision is extremely difficult to do. This is because there are differences between the models of provision, how these are funded and costed and how the work is divided between different teams within an authority. The extent to which service costs are “subsidised” from centrally-retained DSG is clearly important. The quality of service may well differ depending upon the service provision model offered and this may also have an impact on the level of work that schools may have to do themselves.
- 5.4 The approach taken in the SE county that officers visited in September is somewhat different to Hertfordshire. The service in that authority is well regarded and efficient but this model does result in fewer checks, allows appeals to be made when an application has not been made/decided, and potentially would opens HCC or schools to a greater risk of errors and challenge. The division of responsibility is different to Hertfordshire with more of the work being done in admissions presentation or at school level.
- 5.5 The outcome of the SE county study did however establish that their unit costs, inclusive of overheads, are significantly lower than the Hertfordshire current service. The unit cost of dealing with appeals in Hertfordshire is £268 per appeal lodged. The reason for this difference is down to the SE county’s automated processes sending papers submitted to schools and admissions teams. This results in lower staffing in the appeals team, whilst some of the work may be passed to schools and admissions.
- 5.6 The visit did raise some possibilities about implementing potential changes to improve and streamline our existing process without removing the checks and balances already in the system. These potential changes will be taken forward as part of the review for consideration as a means of reducing the costs of the service.

6. Issues raised during June 2019 Schools Forum meeting

6.1 School hoppers

- 6.1.1 One of the issues raised during the June Schools Forum meeting was the number of 'in year' appeals Hertfordshire schools receive, many of which appear to be school 'hoppers'.
- 6.1.2 HCC asks parents for the reason for an application, but they are not legally required to give county this information. During the academic year 2018-19, there were 713 'in-year' appeals and of that total 162 parents recorded that the reason for the application was wanting a new school for their child(ren). Of that total, 29 were withdrawn, 47 were allocated a place, 44 were rejected and 36 were upheld. Please see Appendix A for information about the Fair Access protocol.
- 6.1.3 The county's Integration and In-Year Team has an extensive programme in place for multiple hoppers and is using the data to further scrutinise the 'not moving but wanting a new school' category.

6.2 Timing of appeals

- 6.2.1 The peak period for appeals heard is during the Summer term. Tables 2 and 3 below shows the volume of appeals lodged and heard within each term, and the success rates, over the past two academic years. Secondary transfer appeals are lodged in the Spring term but not heard till the Summer term.

Table 2: volume of appeals lodged and heard in academic year 2017-18

2017-18	Lodged	Heard	Upheld
Autumn	271	203	56
Spring	815	73	26
Summer	1044	857	182
TOTAL	2130	1133	264

Table 3: Volume of appeals lodged and heard in academic year 2018-19 (provisional data subject to review)

2018-19 (to date)	Lodged	Heard	Upheld
Autumn	308	250	72
Spring	1058	77	18
Summer	792	971	205
TOTAL	2158	1298	295

6.2.2 The 148 results not yet recorded relate to the last days of primary reception hearings and those received too late to hear in the summer term so will be heard in the Autumn term.

6.3 Impact of appeals lodged and then withdrawn

6.3.1 The financial impact on schools from charges for cases where appeals are lodged and then withdrawn, was raised as a concern by Schools Forum and this was followed with a discussion about possible ways to reduce the number of appeals. Questions were asked about the information provided to parents about numbers of appeals lodged and then upheld as a possible way to reduce the number of appeals.

6.3.2 Admission authorities cannot limit the grounds on which appeals are made. Admission authorities should explain the limitations placed on appeal panels by ICS (Infant Class Size) legislation, but they should not try to dissuade parents from appealing.

6.3.3 Whereas admission authorities are governed by their admission arrangements, panels are not. They are required to satisfy themselves that the arrangements are compliant with admissions law and have been properly applied to the individual, but beyond that will balance the arguments of both parties and take a subjective view on whether the appeal should be upheld. Being seen to take that right of appeal away, or try to dissuade a parent from appealing, would certainly result in a decision of maladministration if the parent were to complain to the LGO or ESFA and is likely to be in breach of an Academy's funding agreement.

6.3.4 The HCC Admission Appeals website already provides parents with statistics showing appeal numbers and success rates over the past 9 years. In addition, the website shows the limitations on panels' decision making where infant class size applies, and prominently emphasises the reduced rate of success for these appeals.

6.4 The costs of venues

Requirements for a venue

6.4.1 Hearings need to take place in a neutral venue, which is accessible by public transport, has good access for people with disabilities and affords privacy to the parties.

6.4.2 The School Admission Appeals Team has worked hard to negotiate lower venue costs and to consider new venues to possibly reduce costs.

6.4.3 If appeals are heard in a school, they should be held in accommodation away from the main school activity for privacy purposes. Venues must have access to toilets, refreshments for the parties and the panel, and an appropriate waiting area for parents. In addition, photocopying facilities need to be available and parking is required for the panel members, clerk and parents, if not on site, very close by.

Concerns raised by using schools as venues in the past

- 6.4.4 The role of an appeal panel member is not subject to DBS and has previously caused schools to raise concerns.
- 6.4.5 In addition, the county has no checking mechanism for Parents, and whoever they decide to get to accompany them to an appeal. All of these may encounter students if the hearing room and other facilities being provided are not away from the main school.
- 6.4.6 Appeal hearings take place during the day in school term time only. Schools that have previously agreed to offer us venue facilities for appeals have quickly highlighted difficulties around logistics for example parking. In addition, the peak appeal hearings period falls in the summer when GCSE and A levels are being taken which can take out accommodation for appeal hearings and panel meetings may cause disruption to pupils and parking.
- 6.4.7 The Admission Appeals team constantly reviews the suitability and costs of venues it uses for appeals. During the summer term both community and council venues have been approached to consider suitability and cost as possible venues and could not offer capacity for the peak period required or were at a higher rate than the commercial venues being currently used.
- 6.4.8 Of this total, there are only between 4 to 5 possible venues that are both suitable and more cost effective to use across the county. The team is liaising with schools that have previously offered themselves as suitable venues.
- 6.4.9 Currently the Business and Technology Centre (BTC), which is situated opposite the car park for Robertson House, in Stevenage, is used for appeals. They charge better rates and have ample parking for panellists and parents on site so there is no incentive to use Robertson House.
- 6.4.10 Table D below sets out the cost on average per appeal hearing for accommodation

Table 4: Accommodation costs per appeal hearing for 2017/18

Overall stats for year	Appeals heard	Accommodation/refreshment/subsistence costs (average per appeal hearing)
Total	1133	£43 per appeal hearing (£40k plus £8,692 for refreshments and subsistence)

7 Conclusion

- 7.1 As outlined in the paper, there are significant difficulties when comparing the different service provision that local authorities offer schools for admission appeals and with the charges.
- 7.2 Although it is hard to compare, there is however a sense that costs in Hertfordshire need to be lowered so we are looking to reduce the costs and review the type of service offered. We will soon start interviewing those schools that most use the School Admission Appeals service, to identify schools' priorities for the service and to unpick the potential impact if the service became more streamlined.
- 7.3 The establishment of a working group made up of Headteacher and other school representatives would enable officers to work in partnership with the group to review the costs and type of service offer to see if a different offer would be more cost effective and popular with schools and help the service move towards becoming fully traded.
- 7.4 The review process has started but will not be fully complete by April 2020. In the meantime, it is necessary for HCC to become compliant with DfE guidance. Therefore, we intend to commence charging all schools from April 2020. The current cost of £175 per appeal lodged for academies has been raised in April 2018 and prior to this had been held at £168 since April 2013. In view of this, it is intended to increase the charge to £200 from April 2020.
- 7.5 In addition, it is proposed that transitional support of £138,000 is provided by retaining a budget for admission appeals within the Central Schools Service Block budget for the financial year April 2020 through to March 2021 to support the service working towards become fully traded by April 2021.
- 7.6 Although the great majority of appeals handled by the appeals service relate to admissions, there are also a number of exclusions appeals (approximately 20/year) and transport appeals (approximately 50/year).

Appendix A: Fair access protocols

1. There are four material reasons why a parent may make an ‘in year’ application
 - Mover into Herts
 - Mover across Herts (where distance to school would be over statutory walking distance or over recommended travel times for age group)
 - Not moving but wanting a new school (hopper)
 - Living outside of Herts but wanting a school within Herts
2. All are legal reasons for a parent to make an application, and subsequently they have the right of appeal. It is important to distinguish between ‘hoppers’ and those children who are provided with a place through the Hertfordshire Fair Access Protocol. FAP applications could be made under any category bullet points 1-3 (not bullet point 4 as this is only for Herts residents).
3. There are two legal requirements that every local authority has under the Fair Access Protocol. Firstly, fair access - that the identified groups of children within FAP are secured a school place as soon as possible, and secondly, that we distribute these Fair Access pupils evenly across the local schools. As a result, we do not legally have to take into account the parental preference, and often won’t if we are disadvantaging a school who has already take a FAP child.
4. This can lead to requests from parents to take their right of appeal, which is their right. Every child who is FAP has a named school, or a school is in the process of being directed, so they never come through without a school place.
5. There has however been a significant reduction in the number of FAP appeals this academic year as a result of the new Hertfordshire Fair Access Protocol which was launched in September 2018. (<https://www.hertfordshire.gov.uk/media-library/documents/schools-and-education/admissions/fair-access-protocol/hcc-fair-access-protocol->) For the academic year 2018-19 there have only been 3 FAP appeals.
6. Table 1 below shows the breakdown of school appeal by Application Reason for 2018-19. HCC asks parents for application reasons, but parents are not legally required to give county this information. For 2018-19 there are a total of 713 ‘in-year’ appeals recorded, and a number of these have declined to give an ‘application reason’. However, the ones left are as follows:

Table 1: Breakdown of ‘in-year’ school appeal by application reason 2018-19

Application reason	Total appeals	Withdrawn	Allocated	Rejected	Upheld	School presenting	Postponed
1. Moving into Herts	324	78	79	127	34	2	2
2. Moving within Herts	116	28	32	39	16	0	0

Application reason	Total appeals	Withdrawn	Allocated	Rejected	Upheld	School presenting	Postponed
3. Not moving but wanting new school	162	29	47	44	36	0	0
4. Living outside Herts, wanting a Herts school	10	1	4	4	1	0	0
5. Returning to ed. system after EHE	5	2	0	2	1	0	0
Total	632						