

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Executive Member for Education
Date:	20 September 2017
Title:	Changes to the Procedure for Hearing Appeals Against Refusal of Home to School Transport
Report From:	Director of Children's Services

Contact name: Martin Goff (Head of Information, Transport and Admissions)

Tel: 01962 846185

Email: martin.goff@hants.gov.uk

1. Executive Summary

- 1.1. The purpose of this paper is to recommend to the Executive Member for Education a revision to the procedure and practices for hearing appeals against refusal of Home to School Transport. Hampshire County Council's constitution allows for appeals against refusal of exceptions to school transport policies other than appeals relating to the safety of walking routes to be heard by the Executive Member as well as (like other non-Executive functions) through Chief Officer delegated authority.
- 1.2. In future the proposal is that the Director of Children's Services will take responsibility for this function and will organise for all such appeals to be heard by a panel of officers who have had no previous involvement with the case, as required by statutory guidance.

2. Contextual information

- 2.1. There is primary legislation and the Department for Education has provided statutory guidance that details the duty of the authority to provide for, in certain circumstances, free home to school transport for children living in Hampshire. In keeping with the legislation Hampshire has a Home to School Transport Policy.
- 2.2. Families requesting a transport service that cannot be provided within the policy can have their case considered as an exception to policy. The DfE's guidance from 2014 requires that this exceptional consideration is first carried out by a senior officer reviewing the case and, as appropriate, an independent appeal panel hears written/verbal representation from the parent. The appeal panel must be suitably qualified and independent of the process to date.
- 2.3. To date the County Council's Executive Member for Education, supported by other Councillors, has fulfilled the appeal function. Prior to the 2014 Guidance there were very few appeals. However recently the number of appeals has

increased and it has proved difficult to schedule hearings in the best way to support appealing families and the service.

- 2.4. The authority must allow families to request transport and follow a due process in handling those applications where there is no entitlement under policy. This service costs the authority over £30m per annum and with demographic and inflationary pressures managing the service within budget is a significant challenge.

3. Outline of Proposal

- 3.1. It is recommended that the Executive Member for Education approves the proposed change in practice and future provision of the appeals service through the delegated authority of the Director of Children's Services.
- 3.2. Following the change the Director of Children's Services will update the department's scheme of delegation to enable a properly constituted officer panel, independent of the process up to that point, to make decisions on his behalf in accordance with a process that meets statutory requirements.

4. Current Position

- 4.1. Parents refused free home to school transport are allowed to request transport as an exception to policy. If refused again following a senior officer review they are able to appeal against refusal to an independent panel. In the academic year 2016/17 eight appeals were heard by councillors under the current arrangement.
- 4.2. The statutory guidance requires that parents challenge the senior officer's refusal decision within 20 working days of receipt and the authority must arrange the appeal within a further 40 working days. In effect this requires appeal hearings to be scheduled at anytime during the year. This contradicts the Council's approach of avoiding executive decision making during August.
- 4.3. The current arrangement has not failed to meet the statutory requirements to date. However the increasing number of requests for exceptional consideration and the cases that have progressed to appeal has highlighted a potential challenge for the current approach.

5. Recommendation(s)

- 5.1. It is recommended that the Executive Member for Education approves the proposed change in practice and future provision of the appeals service through the delegated authority of the Director of Children's Services.
- 5.2. The Director of Children's Services updates the department's scheme of delegation to enable a properly constituted officer panel, independent of the process up to that point, to make decisions on his behalf in accordance with a process that meets statutory requirements.

CORPORATE OR LEGAL INFORMATION:

Links to the Strategic Plan

Hampshire maintains strong and sustainable economic growth and prosperity:	yes/no
People in Hampshire live safe, healthy and independent lives:	yes/no
People in Hampshire enjoy a rich and diverse environment:	yes/no
People in Hampshire enjoy being part of strong, inclusive communities:	yes/no
OR	
This proposal does not link to the Strategic Plan but, nevertheless, requires a decision because: It seeks a revision to the procedure and practices for hearing appeals against refusal of Home to School Transport.	

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

IMPACT ASSESSMENTS:

1. Equality Duty

1.1. The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Due regard in this context involves having due regard in particular to:

1.2. The need to remove or minimise disadvantages suffered by persons sharing a relevant characteristic connected to that characteristic;

1.3. Take steps to meet the needs of persons sharing a relevant protected characteristic different from the needs of persons who do not share it;

1.4. Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity which participation by such persons is disproportionately low.

1.5. Equalities Impact Assessment:

2. Impact on Crime and Disorder:

2.1. No adverse impact identified

3. Climate Change:

3.1. How does what is being proposed impact on our carbon footprint / energy consumption? N/A

3.2. How does what is being proposed consider the need to adapt to climate change, and be resilient to its longer term impacts? N/A.