

APPEALS COMMITTEE (SERVICE ISSUES)	AGENDA ITEM No. 3
10 NOVEMBER 2011	PUBLIC REPORT

Cabinet Member(s) responsible:	Councillor Holdich; Cabinet Member for Education, Skills & University	
Contact Officer(s):	Jonathan Lewis; Assistant Director Education & Resources	Tel. 863912

REVIEW OF SCHOOL TRANSPORT PROCESSES AND APPEALS

R E C O M M E N D A T I O N S	
FROM : <i>Head of Legal Services</i>	Deadline date: N/A
<p>The Committee is requested:</p> <ol style="list-style-type: none"> 1. To note the contents of the report; 2. To consider whether there are any recommended service improvements to the transport appeals process; and 3. To consider the terms of reference (Appendix A) and standing orders relating to the Appeals Committee. 	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Appeals Committee (Service Issues) to outline the processes for approval of school transport applications and appeals and to consider whether the Committee would like to consider any amendment to current procedures.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The Appeals Committee (Service Issues) meets primarily to consider school transport matters, primarily to hear appeals against a refusal of free school transport. As the Committee is meeting to discuss proposed revisions to the School Transport Policy it is considered timely to review the procedures by which Peterborough City Council undertakes delivery of the appeals process under its school transport policy. Should this Committee decide on any changes to process or procedures it must consider the impact upon the proposed School Transport Policy currently out to consultation and whether the policy ought to be amended.
- 2.2 This report is for the Committee to consider under its terms of reference 2.1.2 *“To review appeals procedures for the Council’s various services (excluding employee procedures, which are the responsibility of the Appeals and Employment Committee, and appeals procedures which are determined by statute) and, where change is recommended, formulate proposals to the Executive.”*
- 2.3 The Committee may also wish to consider its own terms of reference and the standing orders relating to this Committee as these matters have not been reviewed by the Committee for some time.

3. SCHOOL TRANSPORT APPEAL PROCEDURE

- 3.1 Under the Education Act 1996 there is a requirement to provide free school transport for certain children who do not live within walking distance to the nearest suitable school or to certain children of low income families. These pupils are automatically eligible for free school transport.

- 3.2 The Act also allows the Council to exercise some discretion about other children, not automatically eligible, who might qualify for free or subsidised school transport. These discretions are encapsulated in the school transport policy.
- 3.2 When an application is made for school transport assistance the policy is applied by officers in order to decide if the pupil qualifies for free or subsidised assistance. Where no right exists and the application is refused the parent has a right of appeal to the Appeals Committee (Service Issues) which is more commonly referred to as the Transport Appeals Panel.

The status of the Committee/Panel

- 3.3 The Committee operates in the same way as any other regulatory committee of the Council, however regular meetings of the Committee are not identified in the civic calendar as the Committee tends only to be convened once a parent has appealed against refusal of school transport assistance.
- 3.4 Under the Council's Standing Orders the Committee is quorate when 3 members are present. Currently there are only 3 core members assigned to this Committee however the terms of reference permit any member of the Council, with suitable training, to attend the Committee meeting to determine the appeal. This duty has tended to fall to a small number of trained Councillors whose services are continually called upon to ensure the Committee is quorate.
- 3.5 The Committee should therefore consider whether it may be necessary to increase the core membership of the Committee to ensure that there are always sufficient members to attend an appeal hearing or whether a request is made to train more members within the wider council to assist with the work of the Committee.
- 3.6 Other appeal committees of the Council (Standards Sub-Committees, Licensing Sub-Committee and Employment Appeals Committee) either operate in one of two ways: (1) by listing provisional meetings in the civic calendar which are then used to list appeal hearings or (2) by convening a meeting of the appeal panel upon request. The distinct advantage in the first option is that members have set dates in their diary and can ensure that where officers are drawing upon a limited pool of members for the appeal they are always available. It is recommended that if the core membership of the Committee is not increased that listing of provisional dates would ensure availability for an appeal hearing.
- 3.7 The Committee is also asked to consider whether an appropriate programme of training is required in order to ensure both existing and current members attending transport appeal hearings are fully supported in their role.

Requirement to hold appeal hearings

- 3.8 Statutory guidance governs the school transport appeals process. This is the "*Home to school travel and transport guidance*" published in 2007 which states that

"Local authorities should have in place a robust appeals procedure for parents to follow should they have cause for complaint or disagreement concerning the eligibility of their child for travel support. The details of appeals procedures should be published alongside travel policy statements."

- 3.8 Members will note from this guidance that the requirement to have an appeals process in place does require an appeals process to be in place there is some discretion for the local authority to decide the manner in which transport appeals are carried out. Officers have already considered whether the appeals could be heard by an independent panel, similar to the school admissions process, however this is not possible as there is no statutory authority to delegate this decision making function to an independent body.

- 3.9 A survey of other authorities has revealed that there is no single method of dealing with school transport appeals. In some authorities the first appeal is to an officer and from there to a Committee. In other authorities the appeals are dealt with entirely at officer level although escalated to a more senior officer at a second stage and finally, in some authorities, such as Peterborough City Council, the appeal is directly to a Committee from officer refusal.
- 3.10 Members will note that under the transport policy currently out to consultation, there is a proposed change to the existing policy which will build in a filter ensuring that only appeals which demonstrate exceptional reasons why the policy ought not to be applied will be brought before the Committee. This is to ensure that the policy complies with general principles of law ensuring that the policy is applied consistently to all applications with exceptions being permitted on justifiable grounds.
- 3.11 As the proposed policy is out to consultation members may wish to consider whether they wish to recommend a more radical approach to the appeals process and comments are invited from the Committee on whether they consider the proposals to be appropriate for this Council. Any recommendations to change the process would be subject to ratification by Cabinet or under a Cabinet member decision notice.

Improvements to the appeals process

- 3.12 Officers have been considering other more general improvements to the transport appeals process. These include an information leaflet to parents about the process which would give examples of 'exceptional reasons' to assist in understanding the process, providing a checklist for the appeals panel when evaluating appeals and a general guidance note to members who may be asked about school transport matters in their surgeries. Members are asked to note these matters and suggest any further improvements for officers to undertake.

4. CONSULTATION

- 4.1 This report has been the subject of officer consultation between the various teams involved in the school transport process.

5. ANTICIPATED OUTCOMES

- 5.1 Members are asked to consider whether consideration of the issues in this report may impact upon the proposed school transport policy currently out to consultation

6. REASONS FOR RECOMMENDATIONS

- 6.1 These recommendations are made to raise awareness of the work of the Appeals Committee (Service Issues) and to consider whether any changes to process would assist with service improvement.

7. ALTERNATIVE OPTIONS CONSIDERED

- 7.1 This report is intended to be discursive and alternative options are considered within this report.

8. IMPLICATIONS

- 8.1 There are no legal or financial implications which are not addressed in this report

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

"Home to school travel and transport guidance" 2007 Dfes publications

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