

Open Report on behalf of Heather Sandy, Interim Director of Children's Services Education

Report to:	Lincolnshire Schools' Forum
Date:	16 January 2020
Subject:	School Admissions Appeal Charges for Maintained Schools

Summary:

When a child or young person is refused a place at a school, there is a right of appeal against the decision to refuse a place. Admissions authorities must provide appropriate paperwork and a presenting officer for the appeal and ensure there is an appropriate venue, clerk and trained panel to hear the appeal.

This right of appeal is the same whether the application is made for when a child traditionally starts at the school in Reception or Y7 or if the application is mid-year in any year group.

Academies can purchase this service from LCC (admissions team and Legal services) and currently there is sufficient capacity to meet demand. Not all academies use this service at present.

Currently, maintained schools do not pay for this service, which is historic and the Academy schools are invoiced retrospectively.

In 2018 the operational guidance for academies was updated to state that maintained schools and academies must be treated equally when it comes to the expenditure of DSB budgets (full details below) The payment of admissions appeals was identified as an anomaly and therefore the LA's cannot adopt a position of not charging maintained schools for appeals services but charging academies if financing through a Dedicated Schools Grant (DSG) funded budget.

A consultation occurred between 9 December 2019 and 10 January 2020 asking schools about their opinions on charging all schools for this service, inviting them to suggest alternative arrangements they see fit. These are discussed in Appendix A, alongside alternatives discussed prior to consultation by LCC officers.

If Schools Forum do not agree permission for School Admissions Appeals to be a chargeable service, they will need to consider how costs for all schools would be met, considering capacity limits under current structures and the implications for an alternative solution.

Recommendation:

It is recommended that representatives of maintained schools agree School Admissions Appeals services to be permitted as a chargeable service.

Background

Schools Admission Authorities are responsible for all matters regarding appeals, as outlined in the School Admissions Code (2014). This includes arranging an appeal with appropriate clerks and independent panel members, providing a statement concerning the decision and presenting the case at appeal (School Admissions Code 2012).

Lincolnshire Local Authority (LA) is the admissions authority for 2 of the 54 secondary schools in Lincolnshire and 158 of the 281 primary/infant/junior schools. These schools are not currently charged for any aspect of the appeals service (either from admissions or legal services). These appeals are financed through the centrally held DSG budget.

Admissions authorities are able to purchase appeal services from LA's (or any other agency) or are able to deal with these themselves providing that the requirements of the School Appeals Code (2012) are met.

Admissions authorities can purchase support with the schools case from the admissions team at LCC (written case and presenter at appeal) and all other support from Legal Services.

In 2014 The DfE consulted to make it possible for LA's to charge maintained schools for appeal services. This was due to the abolition of specific budgets provided to academies for admissions purposes which resulted in inequality between types of school.

The DfE now require that LA's must treat all maintained schools and schools that are their own admission authorities equally in respect of centrally retained DSG funding. In essence, if a LA holds funding through the Central Schools Services Block of the DSG to provide an admission appeals service without charging to community and voluntary controlled schools, they must also provide this service without charging academies, voluntary aided and foundation schools, although these schools may instead choose to make their own, self-funded arrangements.

When this was brought into effect, LA's could charge maintained schools Academies, voluntary aided and foundation schools could also buy back into an

appeals service provided by the LA if they wished to or to make their own arrangements. The Schools operational guidance was updated, stating:-

- 156.1. Local authorities should not be treating voluntary aided schools, foundation schools or academies, differently from maintained schools in the services they provide to them; this is set out in the DSG conditions of grant.
- 156.2. Schools such as voluntary aided schools, foundation schools and academies, cannot 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.
- 156.3. This does not include funding that has been retained centrally from maintained school budgets only (as set out in schedule 2, parts 6 and 7), where some statutory duties relate to community and voluntary controlled schools only. However, in these situations authorities should not charge voluntary aided and foundation schools if requested to provide services to these schools and where there is no charge to community and voluntary controlled schools for the same service.

It is stipulated in the guidance that if a LA wished to make use of the additional flexibility [to charge for appeals], a change to the local scheme would be needed. LA's must consult all schools in their area and receive the approval of the members of their Schools Forum representing maintained schools.

In 2013/2014 during the funding reforms the £100,000 budget for appeals services for maintained schools was devolved to schools through the age weighted pupil unit funding (AWPU).

Academies can apply for funding through the ESFA to fund any appeals they receive after the first 20 appeals. They cannot apply for this if their LA does not charge for this service. Maintained schools cannot apply for this support.

Should this be agreed, there would not be change to practice with regard to admission appeals, however the school would be invoiced for the service retrospectively.

Alternatives were considered as outlined in Appendix A and the benefits and drawbacks of each are discussed. If agreement was not reached to allow this service to be chargeable to all schools then an alternative funding source would be required or additional funds allocated to school admissions to cover costs for all schools. Resources in relation to the capacity to provide all appeals services would also need to be carefully considered.

Conclusion

It is recommended that Schools Forum agree the LA's proposal for appeals to be charged for maintained schools so that LCC can ensure that practices fair and equitable as outlined in the above operational guidance. Consideration will be

given to any points raised by schools during the consultation period if permitted to charge schools for this service.

Consultation

The Lead Member and Director of Children's Services have been consulted.

The consultation was conducted between 9 December 2019 and 9 January 2020 and was communicated to all schools.

There were 11 respondents to the consultation, 10 from maintained schools and one from an academy school. One respondent was a secondary school, the remainder were primary school respondents.

One maintained school was in favour of agreeing the charge, two schools (one academy) did not express an opinion and the remaining eight schools do not agree to the consent for the charge.

The concerns were:

1. This would create cost pressures for the school and other services may have to be cut as a result (five schools).
2. The lack of ability to anticipate the number of appeals would make budgeting for this difficult (four schools).
3. Holding appeals in the school to save money is not fair to parents who have been denied a place at the school. (two schools).
4. The impact would be felt most (in their opinion) by small rural schools who couldn't use their school as a venue. These schools would have perhaps larger transport costs to cover than other schools (two schools).
5. Appeals due to a schools popularity when subject to infant class size restrictions should not be felt by the school (two schools).
6. Appeals due to place planning discrepancies should not be felt by the schools (one school).
7. Accepting students to avoid appeals would lead to larger classes and a decline in standards (one school).

a) Have Risks and Impact Analysis been carried out? Yes, this is attached at Appendix B.

b) Risks and Impact Analysis

There is no disproportionate impact on any group with protected characteristics.

Appendices

These are listed below and attached at the back of the report	
Appendix A	School Admissions options for charging appeals.

Background Papers

Document title	Where the document can be viewed
School Admissions Code (2014) -	https://www.gov.uk/government/publications/school-admissions-code--2
School Admissions Appeals Code (2012) -	https://www.gov.uk/government/publications/school-admissions-appeals-code
Operational Guidance for Academies –	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/767607/Operational_guide_2019_to_2020.pdf

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