

TITLE School Transport Appeal Hearing Process Guidelines

FOR CONSIDERATION BY Licensing and Appeals Committee on Thursday 21 January 2010

WARD None Specific

GENERAL MANAGER Graham Ebers, General Manager Business Services

OUTCOME

To clarify the School Transport Appeal Hearing Process Guidelines.

RECOMMENDATION

That the Licensing and Appeals Committee agree the proposed changes (highlighted in bold italics in Appendix A) to the School Transport Appeal Hearing Process Guidelines.

SUMMARY OF REPORT

The report sets out the proposed changes to the School Transport Appeal Hearing Process Guidelines. The proposed amendments are to provide clarification to those seeking to appeal for home to school transport assistance.

Background

The School Transport Appeal Hearing Process Guidelines outline the School Transport appeal process, the process followed at the hearing and the decision making process.

The guidelines are provided to parents who have been refused home to school transport assistance and who wish to appeal against this decision. They can also be viewed on the Council's website.

Proposed amendments and reasons for suggested change:

- Remind potential appellants to apply in writing to the Corporate Transport team for transport assistance and to have been refused in writing before submitting an appeal - An appeal cannot be progressed until the appellant has received written confirmation that they are not eligible for home to school transport assistance.
- Additional information – to inform both parties (Corporate Transport and the appellant) that whilst they are able to submit additional information up to and on the day of the hearing, they should submit information as soon as practicable. If any information submitted on the day is lengthy or introduces key new issues it may be necessary to adjourn the hearing to another day to allow all parties time to review the information.
- Site visits – to clarify that the Panels do not undertake site visits between the school and the appellant's home so that their impartiality cannot be called into question.
- Appellant may bring a friend for support – to clarify who appellants are able to bring to the hearing to support them.
- Time taken to convey decision to appellant – it is suggested that the time in which the appellant is informed of the decision in writing be extended from 3 working days to 5 working days. This would be particularly advantageous in the instances when multiple appeals are heard on the same day and a number of decision letters need to be produced.
- Ombudsman and judicial review – to clarify the options available to an appellant if they were unhappy with the Panel's decision. If an appellant was unhappy with the appeal process they could make a complaint to the Local Government Ombudsman alleging maladministration. If they were unhappy with the decision itself they may be able to seek a judicial review of the decision. However, they would need to seek their own legal advice on this matter

Analysis of Issues

Panels of between 3 and 5 five Members hear School Transport Appeals. There is a need to ensure that the guidelines on the appeal process and the hearing itself which are issued to appellants are clear and easy to understand to ensure a quick and efficient appeal process.

Reasons for considering the report in Part 2
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N/A

List of Background Papers

School Transport Appeal Hearing Process Guidelines
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WOKINGHAM BOROUGH COUNCIL

School Transport Appeal Hearing Process

Guidelines

Introduction

The policies of the Borough, as Local Education Authority, in respect of the provision of assistance for home to school transport, are administered by the General Manager, Children's Services.

The Corporate Transport Unit considers applications and issues decisions in accordance with the Council's policy, on behalf of the General Manager, Children's Services.

The appeal process is for parents who are not satisfied with a school transport decision.

How To Appeal

An appeal must be made on the **School Transport Appeal Form**. This can be completed on line or in written form. <http://www.wokingham.gov.uk/school-travel-appeals>

Before submitting an appeal for school transport please ensure that you have made an application for transport in writing and have received written confirmation that your request has been refused.

An appeal should include with it all relevant supporting information to explain why it should be approved. ***Parties are asked to submit any additional information as soon as practicable to allow the Panel and other parties sufficient time to review the information. Whilst all parties can submit additional information on the day of the hearing please note that if it is of significant length or raises key new issues relating to the case it may be necessary for the hearing to be adjourned to allow all parties to consider the information.***

The completed form must be sent to:

E mail: democratic.services@wokingham.gov.uk

Post: Democratic Services
Wokingham Borough Council
Shute End
Wokingham
Berkshire RG40 1 WQ

The Appeal Process

1. When an appeal is received it is referred to the Corporate Transport Unit, or appropriate department and a statement prepared. This statement will detail how the Council's policy has been applied to the particular case and the reason for refusal of the application.

Appendix A

2. A hearing will be convened as quickly as possible to consider the appeal.
3. Notice of the hearing will be sent to the appellant with at least 14 working days notice. A copy of the Corporate Transport Unit's Statement and any other information related to the appeal will also be sent.
4. The appellant will be invited to attend the hearing and bring people with them to support them, or if needed to present the case. If the appellant does not wish to attend the hearing, it will proceed and the decision made, based on the written information **provided in the appeal form**.
5. **The appeal Panel does not carry out site visits. This is so that their impartiality cannot be called into question.**
6. The hearing will be at the Wokingham Borough Council Offices, Shute End, Wokingham.
7. The Schools Transport Appeal Panel is made up of either 3 or 5 Councillors who will hear the appeal and make the decision. No-one on the panel will have been involved with the original decision to decline the application.
8. The Appeal Panel members will be circulated with all written information on the appeal.

The Hearing Process

1. The hearing will be conducted in private.
2. Those present at the hearing will be:
 - the Panel members,
 - a representative of the General Manager, Children's Services, usually a person from the Corporate Transport Unit,
 - a Democratic Services Officer,
 - the appellant (**Appellants may be accompanied or represented by a friend., adviser of interpreter or signer who may speak on their behalf at the hearing. The friend should not be a member of the school that home to school transport has been requested to**),
3. One of the panel members will be elected to chair the hearing.
4. All those present will be introduced.
5. **The Corporate Transport Unit representative and/or** the General Manager Children's Services representative will explain the reasons why the application for transport assistance has been declined.
6. The appellant can ask questions of the **Corporate Transport Unit representative and/or** General Manager's representative for clarification and information.
7. The Panel can ask questions of **the Corporate Transport Unit representative and/or** General Manager's representative for clarification

Appendix A

8. The appellant will then present their case. No new information can be introduced **at this stage**.
9. **The Corporate Transport Unit representative and/or** the General Manager's representative can ask questions of the appellant for clarification and information
10. Members of the Panel can ask questions of the appellant for clarification and information.
11. **Both the Corporate Transport Unit representative and/or** General Manager's representative and the appellant will be given the opportunity to sum up their information.
12. The Corporate Transport Unit representative and/or the General Manager's representative and the appellant will be asked to leave the meeting so that the panel can consider the information and make a decision.
13. The Democratic Services Officer will remain in the meeting but only to record the proceedings and decision made.

The Decision

1. Each appeal will be considered on its own merits.
2. The decision will take full account of all information submitted to it and the Council policy for home to school transport.
3. The decision will be conveyed to the appellant in writing within **5** working days of the hearing.
4. If the appeal has been upheld contact will be made by a representative of the General Manager to make the necessary arrangements.
5. If the appeal is dismissed there is no further avenue for local consideration.
6. If the appellant feels that **the Panel was not administered fairly or correctly they can make a complaint to the Local Government Ombudsman alleging maladministration by the Panel.**
7. **If the appellant is unhappy with the decision they may be able to seek a Judicial Review against the decision. If the appellant wishes to do this they should seek their own legal advice on this matter.**

Further Information

If you require further information, please contact:

Democratic Services
Wokingham Borough Council
Shute End
Wokingham
RG40 1WQ
Telephone: 0118 9746058 or 0118 9746319
Email: democratic.services@wokingham.gov.uk