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| TITLE | Amend School Transport Appeals Process |
| FOR CONSIDERATION BY | The Licensing and Appeals Committee |
| WARD | None specific |
| STRATEGIC DIRECTOR | Graham Ebers |
| LEAD MEMBER | Keith Baker, Executive Member for Transport |

OUTCOME

Introduction of two stage School Transport Appeals Process resulting in:

- Transport Appeals only occurring once grounds for appeal have been established.
- Consistency for parents with the outcome of appeals.
- Report of proposed changes to be considered by Licensing Appeals Committee on the 5th March 2012.

RECOMMENDATION

1. That the Licensing and Appeals Committee agrees to establish a School Transport Appeals Panel of six members.
2. That Licensing and Appeals Committee recommend to Council, via the Constitution Review Working Group that the Licensing and Appeals Committee's Terms of Reference as outlined in the Constitution, be amended and that the terms of reference of the School Transport Appeals Panel as set out in Appendix A, be agreed.
3. That the Licensing and Appeals Committee agree the proposed changes (highlighted in bold italics in Appendix B) to the School Transport Appeal Hearing Process.
4. That the Licensing and Appeals Committee agree to the introduction of a two stage School Transport Appeals Process as follows:

First Stage – Appeal forms are initially reviewed by Officers (three with the appropriate delegated powers) - those that are outside of the published criteria and/or are simply disagreeing with the decision without providing evidence to support a case will not proceed to Stage Two, and the parents will be notified. Parents will still have a right of appeal to the Local Government Ombudsman if they wish.

Second Stage – Formal Transport Appeal Hearing heard by School Transport Appeals Panel in accordance with the process as set out in Appendix B. The quorum for this Panel would be three.

SUMMARY OF REPORT

The report sets out the proposed introduction of two stage School Transport Appeals Process in line with model used by many other Authorities.

Background

The current School Transport Appeals process has resulted in inconsistencies for parents and Council Officers. Wokingham are currently at the generous end of the scale in awarding rights of appeal over transport decisions. In certain instances two very similar appeals, where policy was administered correctly, have resulted in two completely different outcomes when taken to Appeal. A number of complaints have been received as a result.

The cost implication per mainstream secondary age student when Transport has been awarded at appeal has been between £2625 and £7837.50, which covers transport costs from Year 7 until the end of Year 11.

Total Number of Appeals in 2011 = 20

Number of Transport Appeals where Policy was administered incorrectly = 1

Total Number of Appeals refused = 12

Total Number of Appeals Allowed and Transport awarded = 8

Total Transport Costs as a result of the above £27,787.50

- The number and length of Transport Appeals has become excessive and it is proposed that they should only take place where there is evidence to support a case.
- The Committee is asked to consider how the Council should deal with transport appeals when it is clear that they are outside of the policy and therefore unlikely to be successful. This both raises the expectations of parents, and requires a considerable amount of officer resource. Cases that would fall into this category might include, for example: Situations where the family have chosen an out of catchment school and been clearly informed that they will be responsible for transport, the parents dispute the distance, parents seek a review of the safety of route or simply disagree with the Home to School Transport Policy. In these circumstances it would be time-wasting for the parent and the School Transport Appeals Panel to follow through an appeal and therefore a system is needed that would enable parents to be advised that there would be no appeal.
- The proposal is that once an appeal form is received, the appeal forms are initially reviewed by Officers (three with the appropriate delegated powers) to assess whether the appeal might fall into this category. If the Officers agree, then the appeal is dismissed at that stage, with parents being offered the right of appeal to the Ombudsman. If there is no consensus, or it is decided that the appeal should be heard, then it will go forward to the next stage and be heard by the School Transport Appeals Panel. All other appeals would go forward to the School Transport Appeals Panel. School Transport Appeals made on Special Grounds (e.g. Medical, social or welfare issues) would be dealt with in a more efficient manner within the two stage process as the Officers involved in the First Stage would have the delegated powers to award transport based on the merits of the application if appropriate.
- At present School Transport Appeals are heard by School Transport Appeal Panels of three Members. The Panel members are selected from a pool of members who have volunteered to hear appeals. A Chairman is elected at each hearing meeting. The establishment of a formal politically balanced School Transport Appeals Panel of six elected Members to hear School Transport Appeals will help to create consistency with the outcome of appeals, resulting in fewer complaints.
- Appropriate training would be offered to Panel members to ensure they understand the School Transport Policy that must be administered by School Transport Officers.

- Appeal Hearing would take place on set days each month to ensure best use of Senior Officers time and resources.
- There has been some research of practice in other authorities, and this is attached as Appendix C. A range of approaches are being taken across the Country, and Wokingham would not be alone in limiting the circumstances for appeal to Councillors. Some authorities offer no right to appeal to Councillors.

Analysis of Issues

- Changes to the designated areas for Secondary Schools in Wokingham Borough will come into force in 2012, Wokingham will need to ensure consistency when/if parents challenge the outcome of their requests for assistance with home to school transport as inconsistent outcomes could undermine the agreed policy.
- Transport Officers will need to closely manage transport costs during 2012 as the full financial implications on Transport Budgets, as a result of the changes to the current designated areas for Secondary Schools, are not yet fully known.

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| Reasons for considering the report in Part 2 |
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| List of Background Papers |
| Appendix A – Chapter 8.4 Licensing and Appeals Committee Appendix B – The Hearing Process Appendix C – Transport Appeals in other authorities |

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| Date 6 th February 2012 | Version No. |

Chapter 8.4 – Licensing and Appeals Committee

The following amendments to the function of the Licensing and Appeals Committee are proposed.

1. Section 8 – Licensing and Appeals Committee

8.4.1 Function and Composition of the Licensing and Appeals Committee

The Licensing and Appeals Committee functions shall be as follows:

- g) consideration of appeals, through individual panels, in relation to the granting of and conditions imposed upon licences relating to taxi, food, street trading, school accredited driver, grievance and disciplinary procedures, and other miscellaneous issues. **[home to school transport removed from list]**

2. Section 8.7 – School Transport Appeals Panel

It is proposed that the following terms of reference be inserted into the Constitution.

8.7.1 Function and composition of School Transport Appeals Panel

The School Transport Appeals Panel shall comprise six Members of the Authority, appointed by the Council in accordance with the rules of political balance. A Chairman and a Vice Chairman will be appointed. The Executive Member with responsibility for School Transport shall not be a member of this Panel.

The School Transport Appeals Panel's functions shall be:

To hear appeals against decisions taken in line with the Council's policy on school transport, so that due consideration may be given to the individual and exceptional circumstances of the appellant; and to indicate the form of transport which should be provided, where appropriate.

8.7.2 Meetings of the School Transport Appeals Panel

The School Transport Appeals Panel shall meet as and when required. Meetings will be convened by Democratic Services as and when required in consultation with the Chairman. These meetings will not be open to the public.

8.7.2 Public and Member Questions

No public or Member questions may be asked at School Transport Appeals Panel meetings.

8.7.3 Quorum

The quorum of a meeting of the School Transport Appeals Panel will be three.

8.7.4 Procedure at Meetings

The procedure to be followed will be that previously agreed and set out in agendas.

Appendix B

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 Strategic Director, People 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 or interpreter or signer who may speak on their behalf at the hearing. The friend should not work at the school that home to school transport has been requested to),
3. All those present will be introduced **by the Chairman**.
4. The Corporate Transport Unit representative and/or the Strategic Director, People Services' representative will explain the reasons why the application for transport assistance has been declined.
5. The appellant can ask questions of the Corporate Transport Unit representative and/or Strategic Director's representative for clarification and information.
6. The Panel can ask questions of the Corporate Transport Unit representative and/or Strategic Director's representative for clarification
7. The appellant will then present their case. No new information can be introduced at this stage.
8. The Corporate Transport Unit representative and/or the Strategic Director's representative can ask questions of the appellant for clarification and information
9. Members of the Panel can ask questions of the appellant for clarification and information.
10. Both the Corporate Transport Unit representative and/or Strategic Director's representative and the appellant will be given the opportunity to sum up their information.
11. The Corporate Transport Unit representative and/or the Strategic Director's representative and the appellant will be asked to leave the meeting so that the panel can consider the information and make a decision.
12. 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 sent 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 Strategic Director 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.

Consideration of Education Transport Appeals in other authorities

| Authority | Details |
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| Solihull MBC | Appeals Committee comprising 5 Councillors. Cases can only be considered if free school transport has been previously refused by the Officer Transport Review Panel. |
| Isle of Wight | General Purposes Sub Committee of the Licensing and General Purposes Committee comprising 3 Councillors. |
| Devon | Appeals Committee. Cases can only be considered if free school transport has been previously refused by the Transport Eligibility Officer Panel. |
| Dorset CC | Children and Adult Services Appeal Committee, comprising 5 Councillors. The Committee also considers other matters including pupil support, boarding education matters and parking concessions. |
| Wiltshire CC | A Sub Committee of the Appeals Committee comprising three trained Councillors. |
| Derbyshire CC | Elected Member Review Panel, of the Regulatory Licensing and Appeals Committee comprising 3 or 4 Councillors. Cases can only be considered if free school transport has been previously refused by the Officer Review Group. |
| Cornwall | Education Transport Appeals Panel, of the Regulatory Committee comprising 6 Councillors. |
| Gloucestershire CC | Appeals Panel comprising 3 Councillors. |
| Hertfordshire CC | All cases are considered by a panel of 3 officers (Admission and Transport Managers) that have not been involved in considering the case. No cases are considered by Councillors. |
| North Yorkshire CC | Appeals Committee comprising 4 Councillors. |
| Norfolk CC | All cases are considered by Officers. Initially by Client Services Manager, Travel and Transport Services. If further review is required this is undertaken by Transport policy Manager, Children's Services Department whose decision is final. |
| Suffolk | initially reviewed by officers in Legal Services and Children and Young People's Services, and only those that provide evidence that the published criteria haven't been applied appropriately proceed to the Committee for consideration |