



Report of the Assistant Chief Executive (Corporate Governance)

Executive Board

Date: 2 September 2008

Subject: School Admission Appeals Code – DCSF Consultation document

Electoral Wards Affected: <input type="checkbox"/> Ward Members consulted (referred to in report)
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Specific Implications For: Equality and Diversity <input type="checkbox"/> Community Cohesion <input type="checkbox"/> Narrowing the Gap <input type="checkbox"/>

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

1. Purpose of Report

- 1.1 To inform members of the DCSF Consultation Document on the School Admissions Appeals Code launched on 12 June 2008. In particular the proposal to revise a previous amendment to the Code so that elected members may in the future represent parents who appear before school admission appeals panels provided there is no conflict of interest.
- 1.2 To seek Members approval to a proposed response to the consultation by the closing date of 2 October 2008

2. Background Information

- 2.1 At it's meeting on 16 April 2008 Executive Board received a report from the Assistant Chief Executive (Corporate Governance) regarding amendments made to the School Admissions Appeals Code for appeals lodged on or after 1 March 2008. The revised Code imposed mandatory provisions preventing the attendance of elected members as a friend or adviser to parents attending School Admission Appeal Hearings and from being invited to attend appeal hearings as witnesses.
- 2.2 The Consultation Document proposes (in italics):-

Paragraph 2.14 (paragraph 2.13 in present Code):

Appellants must be advised that their “friend” or “adviser” at a hearing cannot be an employee of the local authority connected with education or the school in question or a member of the admission authority concerned. Elected members of the local authority and local politicians such as MPs can accompany parents to an appeal hearing as long as this would not lead to a conflict of interests and place undue pressure on the panel.

Choice Advisers may wish to support *Appellants* in preparing for their appeal as part of their role in supporting parents with their secondary school choices. Where this is part of their locally agreed role, Choice Advisers may accompany *Appellants* to the appeal as an adviser but cannot present an appeal on their behalf. Where *Appellants* intend to be represented or accompanied they should inform the clerk in advance of the hearing. Panels **must not** treat appeals from unrepresented *Appellants* any differently from appeals from those that have representation.”

Paragraph 2.18 (paragraph 2.17 in present Code) maintains the position that Members of the local authority **must not** be invited to attend appeal hearings as witnesses:-

“Members of the local authority **must not** be invited to attend appeal hearings as witnesses. Occasionally parents ask if their child can attend the hearing. *Appeals other than school sixth form or those concerning young people above compulsory school age* are about refusal of a parent’s statutory right to express a preference for a particular school, attendance can be distressing for some children and unless there are exceptional reasons children **should not** be invited to attend.”

2.3 Elected members have been consulted on this issue and have responded in the following terms:-

Conservative Group - “As a whole believe that elected members should be able to represent parents at their school appeals and that legislation or guidance should not prohibit this”

Labour Group - “ We believe that councillors must not be hindered in performing the duties we were elected to do, namely to represent our constituents. As such we believe that we should as local councillors be able to assist our constituents at school appeals meetings helping them put their views across and if necessary and if requested speaking on their behalf”

Morley Borough Independent Group - “ Any guidance which sought to cut councillors out of school appeals or any other system of representation or appeal to a council would disadvantage those who were least able to deal with bureaucracy; the articulate or well heeled might be able to represent themselves adequately, or be able to afford to buy in professional advice. Would a councillor who was a disgruntled parent be able to present his own child’s case to a school admissions appeal panel, by setting aside his councillor’s guise?. We object to any proposal to exclude councillors from school admission appeals.

Liberal Democrat Group - Are supportive of the proposed amendment to the Code to allow Councillors to represent constituents.

The reference to a “member of the admission authority concerned” in paragraph 2.14 is not understood and clarification is required from the DCSF as to exactly who it is intended to cover. Further the use of the words “such as “when stating MPs and local politician’s rights of attendance is not helpful and given the limited group involved it would be better to state exactly who can accompany parents to avoid any future difficulties in interpretation.

Paragraph 2.18 seeks to prevent elected members from appearing as witnesses at school admission appeals panels. However in some cases an elected member may be the best or only witness available to a parent. In these cases any perceived unfairness of permitting elected members to give evidence may be outweighed by the unfairness of leaving parents in the kinds of situation set out above, unable to provide necessary evidence. As a matter of public law this may be unfair and also breach parent's human rights.

2.5 Other proposed revisions to the school admissions appeals code are

2.5.1 Generally using the word "appellants" rather than "parents" throughout

2.5.2 including "young people" as an appellant in the appeal process. Young people and their parents also have a right to appeal against an admission authority's decision to refuse:

2.5.2.1 a young person's admission to a school sixth form

2.5.2.2 a young person above compulsory school age admission to a school other than school sixth form

2.5.3 in joint appeals by parents and young people the panel must give both the parent and the young person the opportunity to present a different argument which the panel will need to consider on merit

2.6 It is intended that the new school admission appeals Code following consultation will come into effect in January 2009 and apply to appeals in respect of decisions on admissions communicated on or after 1 March 2009.

3. Proposed response

Set out at Appendix 1 is a proposed response to be sent to the consultation paper.

4.0 Recommendations

4.1 Members are asked to approve or, otherwise comment, on the proposed response set out in Appendix 1

Background papers

- 1 DCSF Consultation Document on the School Admissions Appeals Code
- 2 Executive Board Report 16 April 2008 – Appendix 1 is not for publication under access to information procedure Rule 10.4 (5)