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**Report of Corporate Management Team**

**Paul Darby, Corporate Director of Resources**

**Electoral division(s) affected:**

None.

**Purpose of the Report**

- 1 To consider setting a nominal payment to Education Appeal Panel Members whilst Education Admission Appeals are being held remotely.

**Executive summary**

- 2 Under the School Standards and Framework Act 1988, the Council has a statutory duty to organise and make arrangements to enable parents to appeal against school admission and exclusion decisions. The requirements include the appointment of panel members, the arrangements for the panels to hear the appeals, and the payment of allowances to any member of a panel. Responsibility is delegated to the Head of Legal and Democratic Services to make such arrangements in accordance with Table 7, paragraph 68 detailed in the Council's Constitution.
- 3 Panel members are currently eligible to receive travel and subsistence allowances and can also be compensated for any loss of earnings or any expenses, including child minding costs, which are necessarily incurred as a result of attending an appeal hearing or associated training in accordance with Sections 173 and 174 of the Local Government Act 1972 as provided by the School Admission (Appeals Arrangements) (England) Regulations 2012.
- 4 As appeal panels continue to be held remotely it is proposed that the Council gives a nominal payment for each full day or half day of appeals while held remotely.

**Recommendation(s)**

- 5 The Head of Legal and Democratic Services is recommended to:

- (a) introduce a nominal payment for School Appeals Panel members of £30 for full day and £15 for each half day of appeals, whilst they are being held remotely. Payments will be made with immediate effect to existing panel members and backdated to the start of this year's appeals, and once the new members become part of a panel (having completed training) they will receive the same allowances;
- (b) Should panels return to be held in person, it is proposed that previous arrangements apply, i.e. whereby panel members are able to claim for travelling and subsistence;
- (c) Request that future reviews of the allowances for School Appeals Panel members conducting appeals for community and voluntary controlled schools be considered by the Council's Independent Remuneration Panel as provided for in the Local Authorities (Members Allowances) Regulations 2003.

## **Background**

- 6 In April 2020, temporary regulations came into force which gave admission authorities, local authorities and appeal panels some additional flexibility when dealing with appeals during the COVID-19 pandemic. The temporary regulations have been extended twice since April 2020 and now apply until 30 September 2022. The position after September 2022 is currently unknown.
- 7 In February 2022, the Department for Education sought views on a revised version of the statutory School Admission Appeals Code (the “Appeals Code”). Any revised Appeals Code would provide for appeals to be held remotely (by telephone or video conference) as well as in person and would also allow appeal hearings to continue with just 2 panel members should the third panel member need to withdraw. In essence the proposed changes would make permanent some of the arrangements that were temporarily put in place as a result of the COVID-19 pandemic.
- 8 Legal and Democratic Services responded to the consultation and have welcomed support for the potential flexibility around how appeals are held in the future. This would be consistent with the Council’s current temporary model of hybrid working and adopts a forward-thinking approach, recognising the benefits this would bring in maintaining flexibility (for staff, parents and panel members) whilst also enabling a physical office presence and interaction and collaboration within the workforce.

## **Panel Members and Allowances**

- 9 As of April 2020, the Council had a pool of 23 voluntary panel members. However, since that time, the number of panel members has reduced to eight. This often results in panel members conducting appeals on a regular basis and results in a significantly high workload for them. It has been recognised that should any of these panel members decide they no longer wish to be undertake this role, the Council would have difficulties in arranging hearings.
- 10 In response, the Council has advertised and recruited a further eight new panel members who are currently undergoing training and induction. The new Panel members will be utilised from September 2022.
- 11 Regulation 6 of the School Admissions (Appeals Arrangements) (England) 2012 makes provision for payment of a financial loss allowance (loss of earnings) to admission appeal panel members under section 173(4) of the Local Government Act 1972.

- 12 Paragraph 1.15 of the School Appeals Code states that Panel members are eligible to receive travel and subsistence allowances and can also be compensated for any loss of earnings or any expenses, including child minding costs, which are necessarily incurred as a result of attending an appeal hearing or associated training. Many of the current panel members are retired and consequently, the question of loss of earnings payments is minimal.
- 13 The rate of payment for community and voluntary controlled schools is set by the local authority which must have regard to the recommendations of its independent remuneration panel. The rate of payment for voluntary aided and foundation schools and Academies should be set by the respective governing body or Academy Trust with regard to the rate set by the local authority. Additionally, the Council has service level agreements (SLAs) with schools for the provision of services. The consequences and funding of providing the scheme as outlined by this report will require examination in the context of those SLAs should appeals continue to be held remotely from September 2022.
- 14 Travelling and subsistence allowances paid for the financial year 2019/20, which was the final year before covid measures came into effect, amounted to £1434. Estimates of this breakdown attribute that on average, a panel member received £18 per day.
- 15 Some panel members will have received much less or not claimed at all. Some may have claimed considerably more (for example, this could depend on the distance travelled to and from the venue), however, this provides an approximate indication of the amount spent on expenses pre-covid.
- 16 Whilst undertaking the hearings from home since March 2020, panel members have not been receiving any payments or reimbursement of expenses. Panel members made representations in 2020 with a request for payment, however this was not supported at the time. It was agreed to review the position in due course.

### **Comparison with other local authorities**

- 17 Benchmarking carried out at the time through the Association of Democratic Services Officers noted that local authorities in Blackpool, Essex, Stockport and Wigan agreed to pay their panel members around £25-£30 per day to cover heating, lighting, use of their own printers, shredders and in acknowledgment of their time commitment and contributions towards appeal arrangements.

- 18 Kirklees Council pay an allowance of £119 for a full day meeting and £68 for meetings less than four hours which has been agreed by way of their Members' Allowances Scheme.
- 19 Manchester Council pay £32.50 a day or pay reasonable travel expenses together with provision of a £10 café voucher for lunch.
- 20 In the North East, four Councils responded to enquiries. Darlington, North Tyneside and Northumberland hold the Appeals in person and Panel members can claim expenses. Newcastle continue to hold hearings remotely but are considering introducing hybrid or in person hearings. None of the North East authorities that responded pay (or are considering paying) an allowance for Panel members attending remote hearings.
- 21 In all cases the increased voluntary participation of panel members was noted.

### **Appeals Workload**

- 22 The significant workload together with the challenges the limited number of panel members have faced whilst undertaking appeal hearings remotely during the Covid pandemic is acknowledged. The Committee Services team has provided a substantial amount of support to panel members and indeed the appeal arrangements in addition to their already extensive workload since 2020.
- 23 It is proposed that fees be set at £30 per full day of appeals (over 4 hours) and £15 per half day (under 4 hours). This will be paid with immediate effect to existing panel members and backdated to the start of this year's appeals, and once the new members become part of a panel (having completed training) they will be eligible to be paid per full/half day of appeals conducted.
- 24 There is a significantly higher number of appeals for the summer intake into the academic year from September 2022. Based on the arrangements made to date, the team currently have 50 full days of appeals scheduled. If £30 per day was paid to each member of the admission appeals panel for those 50 days, it equates to £4,500. It is proposed that these costs are met from underspends within service budgets. However, such costs in future years may be recovered via the relevant SLA agreements with schools.

<b>School Category</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23 (to date)</b>
Primary	179	145	31
Secondary	221 (81 received by this time compared to 2022/23)	224 (112 received by this time compared to 2022/23)	323
<b>TOTAL</b>	<b>400</b>	<b>369</b>	<b>354</b>

- 25 Further appeal hearings will need to be arranged between August 2022 to March 2023. These have not been factored into this, although it is anticipated that the volume of appeals will reduce from September onwards. There is also an indication at this early stage that the amount of primary school appeals will be lower than in previous years.
- 26 It is difficult to assess the potential cost going forward as it will depend on the number of appeals received and heard. School Admission Appeal and Exclusion Appeal Panels are the only Panels which include volunteer Panel members and require a significant time commitment during the time period for appeals to be submitted and dealt with.

## **Conclusion**

- 27 That having reviewed the position of the panel members, reflecting the previous and current workload and the time commitment of the panel members throughout the coronavirus pandemic and beyond proposes that nominal payments be made to panel members for the reasons outlined in the report.
- 28 To acknowledge the potential change to future working arrangements and the role of the panel members in conducting appeals for community and voluntary controlled schools it is suggested that this be discussed as part of the Council's Independent Remuneration Panel when setting Members Allowances.

## **Other useful documents**

- School Admissions (Appeals Arrangements) (England) Regulations 2012
- School Admission Appeals Code

- The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2020 and 2021
- School Standards and Framework Act 1998
- Section 173(4) of the Local Government Act 1972

**Author(s)**

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## **Appendix 1: Implications**

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### **Legal Implications**

The appeals must be heard within the statutory timescale, and therefore the Authority is reliant on the panel members to continue their good will in attending numerous appeals.

### **Finance**

Underspends in the democratic representation budget could be used to fund these payments

### **Consultation**

In accordance with the Council's Constitution, the Deputy Leader and portfolio for Finance has been consulted on the proposals.

### **Equality and Diversity / Public Sector Equality Duty**

None.

### **Climate Change**

The holding of appeals panels remotely has brought about positive environmental impacts by limiting the need for costly and unnecessary travel across the County by panel members, staff, parents and Headteachers.

### **Human Rights**

None.

### **Crime and Disorder**

None.

### **Staffing**

None.

### **Accommodation**

None.

### **Risk**

None.

### **Procurement**

None.