



Report to the Schools Forum

Title:	Admission Appeals - Charging All Schools
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1. Purpose of Agenda Item

1.1. This report sets out proposals for a new Admission Appeals charging scheme for all schools, in order to comply with Department of Education (DfE) guidance. The proposal is to charge all schools, including Community and Voluntary Controlled schools that currently receive the appeals service free of charge. Schools that are their own admission authority - academies, maintained Foundation and Voluntary Aided schools are currently charged for this service. BCC also proposes to adjust the charging rates to reflect the complexity of the work involved in specific types of appeal. The DfE have, through various communications, stressed the need for compliance with their guidance and because of this Buckinghamshire County Council are proposing to introduce the new charging scheme from 1st April 2020.

2. Background

2.1. Under Section 94 of the School Standards and Framework Act 1998, responsibility for making arrangements for appeals against the refusal of a school place rests with the admission authority of the school. The admission authority and appeal panel must act in accordance with statutory codes and guidelines. Appeal panels perform a judicial function and must be transparent, accessible, independent and impartial, and operate according to principles of natural justice.

2.2. Buckinghamshire County Council as an admission authority is responsible for the appeals function for community and voluntary controlled schools, as shown in the table below:



Type of school	Who is the admission Authority?	Who is responsible for Arranging an admission appeal?
Academies	Academy Trust	Academy Trust
Community schools	Local Authority	Local Authority
Foundation schools	Governing body	Governing body
Voluntary aided schools	Governing body	Governing body
Voluntary controlled schools	Local Authority	Local Authority

2.3. The admission authorities of Foundation, Voluntary Aided schools and academies may ask another body, e.g. the local authority, to carry out some or all of their admissions functions on their behalf. The majority of schools in Buckinghamshire use this service. However, the admission authority remains responsible for ensuring those functions are carried out properly.

2.4. Recent guidance from the DfE sets out that all schools and academies should be treated on the same basis in relation to appeals. Schools revenue funding 2020 to 2021 Operational guide reiterates this:

'Local authorities should not treat 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. Schools such as voluntary aided schools, foundation schools and academies cannot therefore 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'

3. The Admissions Appeals Service

3.1. The administration of the admission appeals process is undertaken by the County Council's Education Appeals Team, within the Resources Business Unit. The team works according to the statutory Admission Appeals Code, and administers appeals, supports the independent appeal panel and provides impartial advice to parents and schools. Admission authorities must ensure that panel members are

independent and retain their independence for the duration of their service. Details of the service are available to the public on Buckinghamshire County Council's website.

- 3.2. Currently, the Education Appeals Team enters into individual (usually 2 year) contracts with academies, Foundation and Voluntary Aided schools under which they are charged a fee per appeal of £212 or £218 (depending on the contract renewal date). Recent analysis suggests that existing rates do not fully recover costs, as costs e.g. venue costs are increasing.
- 3.3. The appeals service for maintained Community and Voluntary Controlled schools is not currently charged to schools and is funded from the Central School Services Block (CSSB), from a £138k budget in 2019-20. Proposals to reduce this support, as a result of DfE's reduction in CSSB funding, was discussed in the School Budget Proposals report, earlier in this agenda.
- 3.4. There are significant difficulties when comparing the different service provision that local authorities offer schools for admission appeals and with the charges (varying from a subsidised service to full cost recovery). For example Hertfordshire County Council is in a similar position to Buckinghamshire and will be introducing a flat rate of £200 per appeal for all schools from April 2020. However it should be noted that Hertfordshire is not a fully selective authority and this is reflected in the simplicity of their charging structure.

4. Options for Charging

- 4.1. It is clear that arrangements need to be changed so Buckinghamshire Council has a consistent charging system for the admissions appeals service. The local authority has identified three options to consider when deciding the appropriate charging mechanism for Buckinghamshire to comply with DfE guidance:

4.2. Option 1

- The LA stops charging schools. All costs are then to be met from Central Schools Services Block (CSSB). The Admissions Appeals Team has estimated this cost to be £340k per year.
- Option 1 is unaffordable as the 2019-20 budget of £138k is to be reduced to nil in 2020-21 and in future years, in-line with budget proposals for the CSSB addressed earlier in the agenda.

4.3. Option 2

- The LA charges all schools a flat rate for all appeals.
- Option 2 is not equitable as it does not reflect the complexity and the time taken for different types of appeals. Buckinghamshire has seen an increase in the number and complexity of appeals due to the popularity of grammar schools for both Buckinghamshire and out of county applicants. For example grammar school appeals may be an unqualified grammar school appeal with Selection Review Process, unqualified grammar school appeal without Selection Review Process, or a qualified grammar school appeal. In addition the Admission Appeals Service has identified the following less complex types of appeal: upper school appeals, primary school appeals and Infant Class Size appeals.

4.4. Option 3

- To establish a charging system that reflects the complexity of the appeal sufficient to meet reasonable admission appeal costs. Appendix 1 shows the number of appeals for each different type in 2018-19.
- In February 2019 Counsel's opinion was sought and received by the Admissions Appeals Service on issues relating to increased costs and numbers of appeals, as follows: *'In order for the treatment of academies and maintained schools to be "equal", it is not sufficient merely to show that both are charged for appeals. On the other hand, it is not necessarily required to show that the charges are the same if there is a difference in the complexity of the appeal processes carried out by the Appeals Team for community schools and grammar schools.'* and *'On the assumption that both maintained schools and academies are charged a fee amount intended to be sufficient to meet the reasonable admission appeals costs and no more.'*

5. Proposals for Charging Schools

5.1. A consistent system would be achieved by charging all schools for the admissions appeals service. On this basis, the local authority proposes to adopt option 3 as set out in 4.4 above, because it is deemed to be the most appropriate option for Buckinghamshire, for the reasons outlined in this report.

5.2. The Council's Education Appeals Team has set out the following charges based on estimated costs. These charges are proposed to apply from April 2020 and will be charged for all appeals lodged. An annual review of the sufficiency of charges and

the impact on schools will be made. Schools are encouraged to contact the Education Admissions Team to discuss individual charges and the service offered.

Charges to apply from April 2020

£260	per unqualified grammar school appeal with SRP*		
£240	per unqualified grammar school without SRP* appeal		
£220	per qualified grammar school appeal		
£220	per upper school appeal		
£190	per primary appeal (not ICS)		
£150	per ICS appeal.		
	*SRP = selection review panel		

5.3. The impact on schools will vary as currently some schools are charged for the service but will now be charged a fee according to the nature of the appeal. Generally, Secondary schools will see an increase in their current charge. For maintained Community and Voluntary Controlled schools where BCC is the admission authority, charges will apply from April 2020. Trend data suggests the total number of appeals maybe one or two in a year. The forecast annual charge may vary from £300 to £380 for the primary sector, and £440 for the secondary sector. Appendix 2 gives a summary of appeals by school type.

6. Recommendations

6.1. Schools Forum is recommended to note the information in the report and in the appendices, and to agree the following recommendations:

- (i) From April 2020 to charge all schools based on option 3 as set out in 5.2
- (ii) To agree an annual review of the charging scheme, in particular the sufficiency of charges to cover costs and the impact on schools.

Appendix 1

Buckinghamshire County Council - Appeals information for 2018-19

(Details from Buckinghamshire County Council website)

2018/19 appeals	Number heard	Number successful	Percent successful
Primary school, Reception to Year 2	55	8	15
Primary school, years 3-6	50	17	34
Upper school, year 7	189	52	28
Qualified grammar school, year 7	214	17	8
Unqualified grammar school, year 7, after selection review	185	28	15
Unqualified grammar school, year 7, with no selection review	74	2	3
Upper school, years 8-10	18	9	50
Qualified grammar school, years 8-10	54	16	30
Unqualified grammar school, years 8-10	54	7	13
Total Yr. 7 grammar school appeals for Buckinghamshire applicants	200	35	18
Total Yr. 7 grammar school appeals for Out-of- county applicants	272	12	4