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To: Selection and Member Services Committee – 14 March 2013

Subject: **Education Appeals Panels**

Classification: Unrestricted

Summary: This report asks Members to confirm (a) the operation of education appeal panels and (b) arrangements for the payment of travel and subsistence, child/dependant carers' allowances and financial loss.

Background

1. (1) In accordance with its terms of reference set out at Appendix 2 Part 2 of the Council's Constitution, the Selection and Member Services Committee is responsible for making and or arranging the appointment of independent appeals panels (school admissions and exclusions).
- (2) Under the School Standards and Framework Act 1998, school admission authorities must make arrangements to enable parents to appeal against school admission and exclusion decisions. This requirement includes making the arrangements for the panels to hear appeals and the appointment and training of panel members who must be volunteers.
- (3) The work of the Education Appeals Panels is regulated by the School Admission Appeals Code and Guidance on exclusion from schools and Pupil Referral Units. A new School Admissions Appeal Code was published by the Department for Education in February 2012 and new statutory guidance for those with legal responsibilities in relation to exclusion was published in September 2012.
- (4) The new code and statutory guidance require the council to make decisions about the administrative arrangements for the panels, including the number of volunteer panel members who sit on each panel.
- (5) There is also a need to clarify arrangements for the payment of the expenses incurred by panel members. It is important to do this now as a campaign to recruit new volunteer members is underway.

Administrative Arrangements

2. (1) The Council is required to maintain two types of Education Appeals Panels:

- An Admission Appeals Panel which determines appeals lodged by parents where their child is not offered a place at their preferred school; and
 - An Independent Review Panel to review decisions of school governing bodies not to reinstate a permanently excluded pupil.
- (2) The School Admissions Appeal Code says that independent appeal panels must comprise a chair and *at least* two other panel members. There must be at least one lay person (i.e. someone without personal experience in the management of any school except as a school governor) and one person who has experience in education.
 - (3) The statutory guidance on exclusions specifically states that “the local authority/academy trust must constitute the panel with either three or five members (as decided by the by the local authority/academy trust) made up of lay members, school governors and head teachers.
 - (4) In practice, at Kent, the panels have been made up of three members and this has worked well for at least 20 years. Using panels of three makes the most efficient use of the panel members’ time and is less daunting than panels of five for the appellants. There has, however, been no formal decision to sit with three members and in the interest of clarity and certainty, the Selection and Member Services Committee is asked to confirm that admission appeal panels and independent review panels on exclusion should comprise three members.

Payment of Expenses

3. (1) Education Appeals Panels Members are volunteers and cannot receive payment for their services. They are, however, “eligible to receive travel and subsistence allowances and can also be compensated for any loss of earnings or any individual expenses, including child-minding costs that are necessarily incurred because of attending an appeal hearing or associated training” (paragraph 1.13 of the Code). The allowances are set by the local authority, which must have regard to the recommendations of its Independent Remuneration Panel, as provided for in the Local Authorities (Members’ Allowances) Regulations 2003.
- (2) The current members of the Education Appeals Panels very rarely claim subsistence payments as lunch is normally provided for panel hearings. They do, however, claim travel expenses and have been reimbursed at the rate set out in the County Council’s Members’ Allowance Scheme. At present this is 45p per mile.
- (3) None of the current panel members has claimed for the costs of care for dependants and only one has regularly claimed for financial loss.
- (4) The absence of claims for costs associated with care for dependants is largely because most panel members are retired or work part time. However, work is underway to widen and refresh the pool of Education

Appeals Panel membership so that they better reflect the community as a whole.

- (5) It is not anticipated that claims for such costs will increase significantly, but as there is a requirement under the Codes to make such payments, it is important that there is absolute clarity and certainty about what should be paid and how claims should be made.
- (6) The Independent Remuneration Panel has not formally considered payment of Dependants' Carers' allowances to members of Education Appeal Panels but has made recommendations on such payments to elected members and to co-opted members of the former Standards Committee, to which the committee should have regard.
- (7) In order to comply with the School Admissions Appeals Code, the Selection and Member Services Committee is asked to agree that Education Appeal Panel members and Independent Review Panel members can be reimbursed for costs associated with care for dependants in accordance with the provisions the Members' Allowances Scheme, i.e. members of panels with care responsibilities in respect of dependent children under 16 or dependent adults certified by a doctor or social worker as needing attendance will be reimbursed, on production of valid receipts, for actual payments to a carer while the panel member is attending a panel meeting or associated training up to a maximum of £10 per hour for each dependent child or adult. Money paid to a member of the claimant's household will not be reimbursed.

Loss of Earnings

5. (1) As set out in paragraph 3(1) above, Panel members can also be compensated for any loss of earnings. It is important, therefore, to have a scheme in place to deal with any claims for compensation that may arise.
- (2) Only one of the existing bank of panel members claims for loss of earnings and he receives £55.31 for a full day and £27.65 for a half day. This rate has remained the same for at least 10 years, although it is not clear how this amount was arrived at.
- (3) The ceiling on the amount other local authorities are prepared to pay varies. For example, Oxfordshire sets its ceiling at £100 per day and Bracknell will pay up to £59.10 for a full day and £30.14 for a half day.
- (4) It is suggested that compensation for loss of earnings for Education Appeal Panel members be considered by the Independent Remuneration Panel at the earliest opportunity. In the meantime, it is suggested that the Council continues to pay its existing rate. In order to ensure that claims for actual financial loss are valid and audit trails are sufficiently robust, panel members will need to support any claims for loss of earnings with a certificate provided by their employer or, if they are self employed, provide supporting evidence from their accountant.

(6) Recommendations

The Selection and Member Services Committee is asked to:

- (a) Agree that School Admission Appeal Panels and Independent Review Panels on Exclusions comprise three members.
- (b) Confirm the existing practice of paying for travel and subsistence claims to Education Appeal Panel members and Independent Review Panels for exclusions, in accordance with the Members' Allowance Scheme.
- (c) Agree that the Dependants' Carers' Allowance can be paid to members of Education Appeal Panels and Independent Review Panels for Exclusions in accordance with the Members' Allowances' Scheme.
- (d) Agree to the continuation of the payment of loss of earnings allowance of up to a maximum of £55.31 for a full day and up to a maximum of £27.65 for half a day subject to the receipt of a certificate from the appeal panel member's employer or supporting evidence from a self employed panel member's accountant or other appropriate evidence.
- (e) Refer the consideration of loss of earnings for Education Appeal Panel members to the Independent Remuneration Panel.