

By: Mark Dance, Cabinet Member for Operations, Resources and Skills, Children, Families and Education
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To: Cabinet – 2 February 2009

Subject: School Admissions Appeals

Classification: Unrestricted

Summary To inform Cabinet Members of changes to the School Admissions Appeals Code that affect Member attendance at panels.

Background

1. (1) Admissions to schools and appeals against decisions are controlled by legislation, principally the School Standards and Framework Act, 1998 (S.84/85), the Education and Inspections Act, 2006 (S.40), and two Codes of Practice, the School Admissions Code and the School Admissions Appeals Code.
- (2) As a requirement of the legislation, appeals panels are required to be set up by every Admissions Authority, and are supervised by the Administrative Justice and Tribunals Council, not by the Secretary of State or by the local authority.
- (3) Under the current Appeals Code (2008, Section 2.13) locally elected politicians are prohibited from 'accompanying or representing' an appellant due to a potential conflict of interest. This has caused considerable anguish from politicians at all levels across the country, who argue that their representative function is being constrained by this regulation. Ministers agreed to address this in the new Code.

The 2009 Codes

- 2 (1) New Codes come into force on 10 February 2009, with some adjustments to the ruling relating to locally elected politicians.
- (2) Paragraph 2.13 of the new School Admissions Appeals Code states:
'Appellants may be accompanied or represented by a friend, adviser, interpreter or signer who may speak on their behalf at the hearing'.
- (3) Paragraph 2.14 states:
*'Admission authorities **must** advise appellants that the friend or adviser referred to in paragraph 2.13 can be a Choice Adviser, a locally elected*

*politician, or an employee of the local education authority such as an educational social worker, SEN adviser or learning mentor, provided that this will not lead to a conflict of interest. Admission authorities **must not** allow an employee of the school in question or a member of the admission authority concerned to attend in this capacity'.*

Conclusions

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- (1) Having taken advice from our own legal services, and from officials at the DCSF, our view is that as KCC is the admissions authority for Kent LEA Community and Voluntary Controlled schools, its Members are therefore representatives of the admissions authority for these schools. This means that any representation by KCC Members on behalf of parents for these schools would be unlawful.
 - (2) KCC members **may** now appear at admissions appeals for Voluntary Aided, Foundation, Trust and Academy schools **provided that** they are not governors at the particular school involved, or in any other way have a conflict of interest.
 - (3) There are implications for Members to be very clear on the status of every school they are likely to be involved in before agreeing to support a parent at an appeal.
 - (4) There are also conflict of interest implications for LEA employees who may be asked to speak on behalf of a parents, and this will need to be addressed by officers.

Recommendation

4. Members are asked TO NOTE this report.

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Background Documents:

Department for Children Family and Education Revised School Admission Appeals Code 2008, Section 2.13. www.dcsf.gov.uk/sacode