

# HOME TO SCHOOL TRANSPORT

## GLOUCESTERSHIRE COUNTY COUNCIL APPEALS CODE

### 1 APPEALS PROCESS

- 1.1 Parents may appeal against the decision of the local authority regarding their child's eligibility for transport to a particular school. Government guidance on the grounds for challenge is available on the Department for Education website - <https://www.gov.uk/government/publications/home-to-school-travel-and-transport>

#### Officer review

- 1.2 Parents have 20 working days from receipt of the local authority's decision to refuse transport assistance to make a written request asking for a review of the decision. A prescribed form is available for this purpose which may be returned by post or email. The request should set out all the grounds for the challenge to the decision to refuse assistance; this must include the exceptional circumstances which are sufficiently compelling for a decision to be made outside the home to school transport policy. The form MUST be accompanied by specific evidence to prove the exceptional circumstances.
- 1.3 Within 30 working days of receipt of the parents' written request, a senior officer review panel considers the family circumstances and sends the parents a written response setting out the decision reached, the rationale for that decision and information about the member appeal process. If relevant, the letter should make reference to any queries raised by the parent regarding the assessment process.

#### Member appeal

- 1.4 Following receipt of the local authority's senior officer review decision, parents can request that their case is considered by an appeal panel made up of three county councillors. This request must be made within 20 working days of the date of the written response from officers.
- 1.5 The appeal panel will consider the information previously submitted by the parents for the officer review. Parents and officers will have the opportunity to attend the hearing to make verbal representations. A parent can have someone attend the hearing with them to offer support.

- 1.6 The parents and representing officer will be informed in writing of the decision reached and the rationale for that decision within 5 working days.
- 1.7 The local authority must supply the clerk to the appeal panel and the appellant with all relevant documents needed to conduct the hearing in a fair and transparent manner and in accordance with the specified timetable.
- 1.8 The local authority will advise the clerk of any appeal requests as soon as they are lodged. This will give time for the clerk to ensure the panel has no conflict of interests and allow scheduling of appeals to dates.
- 1.9 The clerk will publish the agenda and despatch the papers required for the members of the panel at least five clearing working days before the date of the hearing.

### **Member appeal hearing**

- 1.10 Appeal panels conduct the appointment of the chairman and the consideration of public and member questions in public. The appeal hearings themselves will be held in private 'exempt' session in accordance with the local government access to information provisions.
- 1.11 A senior officer from the officer review panel will present the case on behalf of the local authority and will answer questions on the application of the Council's policy on home to school transport.

### **The order of the hearing**

- 1.12 The clerk will notify the parties of the order of the proceedings in advance of the hearing.
  - a) Panel discussion – reminder of the policy and role of the panel
  - b) Parents and the presenting officer to be invited in
  - c) The presenting officer to explain why the officer review panel did not feel that there were exceptional circumstances which were sufficiently compelling for a decision to be made outside the home to school transport policy.
  - d) Parents to ask any questions of the presenting officer
  - e) Panel members ask any questions of the presenting officer
  - f) Parents to explain why they disagree with the decision of the officer review panel.
  - g) The presenting officer to ask any questions of parents

- h) Panel members to ask any questions of either parents or the presenting officer.
- i) The presenting officer to summarise the local authority's position
- j) Parents to summarise their position
- k) Parents and the presenting officer to leave the meeting
- l) The appeals panel to consider the case and inform the clerk of the decision and their reasons. The clerk will inform both parties of the decision in writing, including the reasons for that decision, within five working days.

## **2 MEMBER APPEALS - REACHING DECISIONS**

- 2.1 Each appeal should be considered on its own merits with the appeal panel considering:

**In this particular case, are there exceptional circumstances which are sufficiently compelling for the decision to be made outside the current home to school transport policy agreed by the Council?**

- 2.2 As a result of the evidence heard, the appeal panel can decide:

**NO** – there are no exceptional circumstances in this case which warrant taking a decision outside the current policy.

**YES** – there are exceptional circumstances in this case, therefore:

**Either** The Council will meet the full cost of transport arrangements. Officers will be asked to commission the most cost effective means of transport.

**Or** The Council will contribute to the cost of ensuring the child is able to get to school. Officers will be asked to commission the most cost effective means of transport.

Exceptionally, the panel can defer the appeal where insufficient information has been provided to allow members to make a decision on the day. If this happens, members will need to make clear what extra information is required and it will be the responsibility of the presenting officer to seek that information.

- 2.3 The Appeal Panel should provide the clerk with the rationale for the decision reached.

- 2.4 Where a panel has been minded to put a time limit on the granting of transport, it may also request that an officer review be held at the end of that period to consider whether transport should be granted for an extended period. Members will include the condition that must be reached for the review to take place. If the member panel does not request a further review then the appeal process has been concluded.

### **3. MEMBER ATTENDANCE AT APPEAL HEARINGS**

- 3.1 A member of the Council may attend the panel to *support* the appellant, providing they are not a member of that panel. However, in attending in this capacity members must not *represent* the appellant.

That means:

A member may:

- Attend the meeting with them as an observer
- Provide moral support (e.g. by making supportive comments to them if they appear to be struggling)
- Offer them informal advice before the meeting, e.g. about what to expect, how to best put their case across

However, a member must not:

- Address the panel on their behalf
- Offer them advice during the meeting
- Speak about the merits (or otherwise) of their case
- Provide evidence to the panel

### **4 LOCAL GOVERNMENT OMBUDSMAN**

- 4.1 There is no further right of appeal for parents. They may, however, make a complaint to the Local Government Ombudsman if they believe that there has been a case of maladministration. Maladministration covers issues such as failure to follow correct procedures or failure to act independently and fairly. It does not cover the merits of decisions that only the panel has the authority to make. Therefore, generally, the Ombudsman cannot consider whether the appeal panel was correct to uphold or dismiss the appeal.
- 4.2 The Ombudsman is not able to overturn the appeal panel's decision but, where they find that there has been maladministration, they may make recommendations for a suitable remedy. For example, they may recommend that an appeal is reheard by a different panel and with a different clerk.

## **5 FURTHER INFORMATION**

### **5.1 Please contact:**

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