
To: Emergencies Board

On: 7 May 2020

Report by: Director of Finance and Resources

**Heading: Education Placing Requests - Procedure During the Covid-19
Emergency**

1. Summary

- 1.1 The report advises the Board of changes to the legislation dealing with placing requests for schools during the Covid-19 emergency to enable more flexibility in the way Councils are able to deal with the requests and any appeals that may be made where requests have been refused.
- 1.2 The report also seeks the Board's approval to reconvene the Placing Requests and Exclusions Appeals Panel and to changes in procedure for dealing with Placing Request Appeals.
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2. Recommendations

- 2.1 The Board is asked to:
- 2.1.1 Note the changes made to the timetable and procedure for dealing with Education Placing Requests by the Education (Miscellaneous Amendments) (Coronavirus) (Scotland) Regulations 2020 (the 2020 Regulations), which came into force on 23 April 2020.
- 2.1.2 Note the procedure for dealing with Education Placing Requests and appeals during 2020;

- 2.1.3 Agree to reconvene the Placing Requests and Exclusions Appeals Panel for the purposes of determining appeals during 2020 on dates to be set by the Convener in consultation with the Head of Corporate Governance; and
 - 2.1.4 Agree that the Head of Corporate Governance make provision for appeals to be considered by the Placing Requests and Exclusions Appeals Panel to be dealt with remotely as outlined in paragraph 3.7 of the report.
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3. **Background**

- 3.1 Parents have a statutory right to apply for a place for their child at a school that is not their catchment area school. For parents who are unsuccessful in their placing request, they can appeal the decision and, if necessary, attend a hearing in front of a panel who will review the Council's decision and decide whether or not to overturn it. Appellants have the right to raise an action in the Sheriff Court to challenge the decision of the Appeals Panel if they are unhappy with the outcome of the appeal.
- 3.2 Prior to the Covid-19 emergency placing requests were dealt with as follows: Decisions by the education authority on placing requests received by 15 March 2020 had to be intimated to the parent by 30 April. Any requests received after 15 March required to be decided within two months. The decision was then intimated to the parent who would then to consider if they wished to appeal. Any appeal submitted had to be acknowledged by the Council within 5 working days and parents were entitled to be notified of the date when the appeal would be heard within 14 days of the appeal being received. The appeals would then be heard by the Placing Requests and Exclusions Appeals Panel within 28 days of the appeal being received.
- 3.3 The Scottish Government has recognised that in the present circumstances it may not be possible for councils to meet the existing timescales for dealing with requests or for arranging appeal hearings. It is also recognised that it will not be possible for appeal hearings to be held in the normal way and that arrangements are required to enable appeal hearings to be dealt with remotely.

3.4 The Council has ceased all committee meetings until, at least, 24 June 2020. Therefore, it is necessary to agree that the Placing Requests and Appeals Panel reconvenes to deal with any placing request appeals submitted by parents. Although it is not possible to accurately predict the number of appeals that are likely to take place, in 2018, the Panel dealt with 19 appeals involving three schools and in 2019, 8 appeals involving the same three schools.

3.5 The membership of the Appeals Panel is specified in legislation and comprises the Convener, Cllr Adam-McGregor together with one opposition member selected from the full membership of the Council and one lay member chosen from a pool of 10 lay members. There are no proposals to change those arrangements.

3.6 The 2020 Regulations have made significant changes to the process for making decisions on placing requests this year.

Councils have been given an additional month within which to make their initial decision. This means that for applications received by 15 March 2020 for children starting at the school in the August term, decisions must be made and intimated to parents by 31 May 2020 at the latest and in any other circumstances within 3 months. For Renfrewshire schools, the decision letters have been issued to parents this week.

Appeal hearings, which previously had to take place within 28 days must now be held as soon as reasonably practicable but within 3 months from the date the appeal is received. It is hoped that any appeals can be dealt with before the end of June although it may be necessary to hold some at a later date depending on the number of appeals received and the resources available to support the hearings.

There are other changes to time limits.

- The Council now has 28 days to acknowledge receipt of an appeal rather than 5 working days
- The period of notice to be given by the Council about the date of the hearing has been changed from 14 days to as soon as reasonably practicable.

3.7 The 2020 Regulations allow hearings to be held remotely in whole or in part by video link, telephone or other means of instantaneous multi-party communication. It is intended that the appeal hearings will be carried out by skype or other similar system that will allow appellants to make their case to the panel.

The Council will provide support to appellants to ensure that they are able to access the technology being used to hold the hearing. As an alternative, if the appellant agrees the appeal can take place by written submission rather than by way of a hearing.

Implications of the Report

1. **Financial** – N/A
2. **HR & Organisational Development** – N/A
3. **Community/Council Planning** – it is unlikely that the recommendations will affect this directly,
4. **Legal** – as detailed in the report.
5. **Property/Assets-** N/A
6. **Information Technology-** N/A
7. **Equality & Human Rights** -
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report; only positive benefits are likely to result from the extension of duration of existing licences due to the ongoing medical emergency. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.

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8. **Health & Safety** – nil.
9. **Procurement** – nil
10. **Risk-** nil.
11. **Privacy Impact** – n/a
12. **Cosla Policy Position** – n/a

- 13 **Climate Change** – neutral. The report concerns the operation of the statutory procedure for dealing with schools placing requests and any subsequent appeals.
- 14 **Fairer Scotland Duty (Strategic Decisions Only)** – n/a

List of Background Papers

Author : **Ken Graham, Head of Corporate Governance**
 Email: ken.graham@renfrewshire.gov.uk