

MAYOR AND CABINET		
Report Title	Education Appeals Panel Members Appointment	
Key Decision	No	Item No.
Ward		
Contributors	Executive Director for Resources & Regeneration (Head of Business and Committee)	
Class	Part 1	Date: 2 March 2016

1. Summary

To obtain the Mayor's approval for the appointment of two independent education appeals panel members.

2. Recommendation

- 2.1 The Mayor is asked to confirm the appointment to the independent education appeals panel of:

Mr John Martin, and Dr Eric Pape,

3. Background

- 3.1 Under section 94 of the Schools 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 the School Admissions (Appeal Arrangements) (England) Regulations 2012, the School Admissions Code, other law relating to admissions, and relevant human rights and equalities legislation, for example the Equality Act 2010.
- 3.2 Appeals panels perform a judicial function and must be transparent, accessible, independent and impartial, and operate according to principles of natural justice.
- 3.3 The admission authority, or clerk acting on behalf of the admission authority, must appoint an independent appeal panel that is comprised of a Chair and at least two other panel members. A panel must consist of the following persons with at least one from each category;
- a) Lay people (someone without personal experience in the management of any school or provision of education in any school (except as a schools governor or in another voluntary capacity).
 - b) People who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.

- 3.4 Admission authorities must ensure that panel members are independent and retain their independence for the duration of their service.
- 3.5 Under section 51A of the Education Act 2002, as amended by the Education Act 2011, the School Discipline (Pupil Exclusions and Reviews)(England) Regulations 2012 states that if applied for by parents within the legal time frame, the local authority or (in the case of an Academy) the Academy Trust must, at their own expense, arrange for an independent review panel hearing to review the decision of a governing body not to reinstate a permanently excluded pupil.
- 3.6 The local authority / Academy Trust must constitute the panel with either three or five members (as decided by the local authority / Academy Trust) representing each of the three categories below.
- 3.7 A five member panel must be constituted with two members from each of the categories of school governors and head teachers.
- A lay member to chair the panel who has not worked in any school in a paid capacity, disregarding any experience as a school governor or volunteer.
 - School governors who have served as a governor for at least 12 consecutive months in the last five years, provided they have not been teachers or head teachers during this time.
 - Head teachers or individuals who have been a head teacher within the last five years.
- 3.8 A person may not serve as a member of a review panel if they:
- are a member / director of the local authority / Academy Trust or governing body of the excluding school;
 - are the head teacher of the excluding school or anyone who has held this position in the last five years;
 - are an employee of the local authority / Academy Trust, or the governing body, of the excluding school (unless they are employed as a head teacher at another school);
 - have, or at any time have had, any connection with the local authority / Academy Trust; school; parents or pupil; or the incident leading to the exclusion, which might reasonably be taken to raise doubts about their impartiality (though an individual must not be taken to have such a connection simply because they are a head teacher at another school); or
 - have not had the required training within the last two years (see paragraph 116).
- 3.9 The first recommended candidate is John Martin, a retired Headteacher, and former National Advisor to the DFE supporting schools facing challenging circumstances.

- 3.10 The second recommended candidate is Dr Eric Pape, a current panel member for the London Boroughs of Bexley, Bromley and Greenwich.
- 3.11 Appendix 1 highlights the skills and experience the individuals possess which will enable them to be effective independent panel members.
- 3.12 Both candidates were interviewed by a recruitment Panel consisting of Councillor Maslin, Cabinet Member for Children and Young People as Chair of the Panel, supported by the Head of Business and Committee and the Senior Committee Manager in Governance Support.

4. Financial Implications

- 4.1 No payments are associated with this appointment. Panel Members may claim expenses for which there is existing budgetary provision.

5. Legal Implications

In addition to those set out elsewhere in this report the Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 5.1 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
- 5.2 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 5.3 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what

public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

5.4 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

5.5 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

6. Crime and Disorder Implications

6.1 None.

7 Equalities Implications

7.1 None.

8. Environmental Implications

8.1 None.

BACKGROUND PAPERS

None

If there are any queries on this report, please contact Olga Cole, Senior Committee Manager, 0208 314 8577.