Dear Colleagues

School Admission Appeals and Choice Advisers

The Department’s partner organisations, A4E and Centra, recently held a series of network meetings for Choice Advisers around the country. These were very helpful for sharing information and good practice. I spoke and took questions at the meetings. My overriding impression was of the commitment and hard work of Choice Advisers in helping to make a reality of fair access to schools, often for the most disadvantaged. I am grateful for local authorities’ support and for their organisation of this important service.

I am writing to you about some concerns about Choice Advisers’ new role in admission appeals that arose at the meetings.

In the School Admission Appeals Code 2009, Ministers introduced a new provision enabling appellants to be represented by, among other people, a Choice Adviser. Indeed, the Code (at paragraph 2.14) requires admission authorities to advise appellants that this is the case. This provision is only qualified by such assistance not leading to a conflict of interest. I am attaching the relevant part of the Appeals Code.

A number of Choice Advisers reported that their local authority is imposing a blanket ban on them acting as friend or representative for appellants because, in the authority’s view, it leads to an automatic conflict of interest. The thinking behind this seems to be that, though offering independent advice, the Choice Advice service is one funded and ultimately provided by the local authority.

The last sentence of paragraph 2.14 does describe when there would be an automatic conflict of interest, but even this is qualified by a footnote in relation to elected members. In the great majority of cases, there should not even be a question of conflict of interest - certainly never when the school defending the appeal is its own admission authority, unless some personal circumstance
of the Choice Adviser in question led to a conflict in a particular case, such as being a governor at the school being appealed for. Because of the independence of their role, it cannot be interpreted that a Choice Adviser is a member of the admission authority concerned, even where the local authority is the admission authority.

Another concern was in relation to how Choice Advice services should, if they need to, prioritise clients to assist or represent at appeal hearings. I realise this can be tricky, but it is a matter for the local authority and service to determine, in line with the requirements for a Choice Advice service set out in appendix 5 of the School Admissions Code. I said at the meetings, it would be acceptable for a local authority to publicise its priority order for assisting parents with appeals. This could, for example, place existing clients of the service at the top while affording lowest priority to parents who are not in the target groups for Choice Advice and have had no contact with the service prior to making an appeal.

Many thanks.

Yours sincerely

Ian Morrison
Fair Access Unit
Extract from the School Admission Appeals Code

Representation

2.13 Appeal panels must make every effort to allow appellants the opportunity to appear in person, make oral representations\(^{21}\) and clarify or supplement their written appeal. Appellants may be accompanied or represented by a friend, adviser, interpreter or signor who may speak on their behalf at the hearing. For appeals refusing a child admission as set out in paragraph 2.4, the parent and child may both attend the hearing, or they may make a decision on whether one is best placed to attend. Where appellants request the services of a translator or signor, who may support the appellant in addition to their adviser, the admission authority must make and fund the necessary arrangements.

2.14 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\(^{22}\) of the admission authority concerned to attend in this capacity.

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21. Schedule 2, paragraph 1(4) of the Appeals Regulations.

22. Member refers to an elected member of the Council who has a direct role in relation to school admissions in the area of that authority.