

**GUIDANCE NOTES
INDEPENDENT APPEAL PANEL ADMISSION APPEALS**

QUESTIONS WHICH PARENTS FREQUENTLY ASK

1. What is Parental Preference?

You do not have the simple right to choose a school for your child. The law gives you the right to express a preference for a school. The Local Authority (LA) has a legal duty in respect of community and voluntary controlled schools for which the LA is the admission authority, to meet your preference unless doing so will prejudice the provision of efficient education or the efficient use of resources.

If your child is refused admission to your preferred school, you may wish to make an appeal to the independent appeal panel which the School has set up to consider admission appeals. Your appeal must be in writing and must set out the grounds on which it is made.

The School will provide you with a form to fill in. If you have medical information to support your appeal you should make sure that you send a copy of this in with your appeal form. Make sure that you keep the original.

2. What is the Independent Appeal Panel?

All appeals will be heard by an independent appeal panel constituted in accordance with The School Admissions (Appeals Arrangements) (England) Regulations 2012. The panel must comprise of a panel chair and at least two other panel members with at least one from each category as follows:

(a) people who are 'Lay' members. This means people without personal experience in the management of any school or the provision of education in any school (disregarding experience as a school governor or in another voluntary capacity); and (b) people who have experience in education, are acquainted with the educational conditions in the Local Authority area or are parents of registered pupils at a school. These people are known as 'Non Lay' members

The appeal panel normally comprises three members – two from category (a) and one from category (b) or vice versa. The members of the panel are all volunteers. They are not allowed to be councillors and they receive no payment other than reimbursement for travelling expenses. They all will have undertaken training as required by the School Admission Appeals Code. The School has the services of a Clerk who will take a note of the panel's proceedings, the decision and the reasons for the panel's decision. The Clerk will advise the panel on procedure and the School Admissions and School Admission Appeals Codes if required. The training, evaluation and appraisal of panel members may involve potential appeal panel members and clerks attending hearings as observers, which may include them sitting in on the panel's deliberations. These people only attend when all parties agree. They will not participate in any of the proceedings.

3. What is an Appeal Hearing and what is the School Admission Appeals Code?

An appeal hearing is when the independent appeal panel set up by the School considers your appeal. Appeal hearings must be conducted in the presence of all panel members and parties and, except in the case of grouped multiple appeals where all parents will be present for Stage 1 of the appeal (see paragraph 10), must be heard in private.

Appeals panels perform a judicial function and need to be transparently independent and impartial.

The School Admission Appeals Code is a national Code governing school admission appeals. It imposes mandatory requirements and includes guidance on the conduct of appeal hearings. The appeal panel must, by law, have regard to the Code.

4. What information does the School provide?

Under the School Admission Appeals Code, the School will provide a written statement summarising its case as to why further admissions should not be allowed. We will send your notice of appeal, together with any other documentation which you have submitted, and the School's written statement, by first class post to the panel and to you not less than seven working days before the hearing so that all parties are aware of the other's case in good time.

5. How much notice will I have of the date of the hearing?

The School Admission Appeals Code says that you must receive written notice of the date at least 10 school days in advance of the hearing. It may be possible to give you more notice but this cannot be guaranteed. Sometimes a hearing for places at the School will already have been arranged before you appeal so you may be invited to forego the minimum 10 school days notice so that you can have your appeal heard at the earliest possible opportunity.

6. Should I attend the hearing?

You are recommended to attend the appeal hearing in person in order to present your case. The conduct of the proceedings is largely at the discretion of the appeal panel, but will be as informal as circumstances allow. You may be accompanied or represented by a friend, adviser, interpreter or signer who may, with your agreement, speak on your behalf at the hearing. Legal representation is not likely to be conducive to the informality of the hearing and should not usually be necessary. However, if you plan to be legally represented you should advise the Clerk to the appeal panel in advance. Occasionally parents ask if their child can attend the hearing. Whilst there is nothing to prevent this, the appeal is about refusal of a parent's statutory right to express a preference for a particular school and so attendance can be distressing for some children. It will also be at the panel's discretion whether they allow the child to speak.

7. What if I can't attend or prefer not to attend?

If you do not wish to attend or are unable to attend, then you can send someone to attend on your behalf. If you are unable to find someone to attend on your behalf, then the appeal panel will deal with your case on the basis of your written evidence. In these circumstances please ensure you put everything in writing to support your case as you will not be able to expand further in person at the hearing. The School's representative will still attend to present their case and the appeal panel may ask questions of them. If you are not at the hearing, the School's representative could draw issues to the attention of the panel, for instance, if they wished to challenge the accuracy of anything you had written.

8. What do I do if I have some questions on the School's submission before the appeal hearing?

You should contact the School on the direct line or email given in the letter accompanying the School's submission and they will do their best to clarify the position for you.

9. Where will the hearing be?

Every effort is made to find a venue within a reasonable distance of the School for which appeals are to be heard but suitable accommodation is not always available. Occasionally, therefore, to avoid undue delay, we will have no choice but to arrange hearings at the School.

10. What happens at the appeal hearing?

The appeal panel will follow a two stage process as detailed below:

Stage 1: Examining the decision to refuse admission

The School presents its case and the panel will consider whether the School's published admission arrangements comply with the mandatory requirements of the School Standards and Framework Act 1998 and the School Admissions Code and whether they were correctly and impartially applied in your case (please note, if there is more than one appellant present at the hearing, this issue, although Stage 1, will be heard at Stage 2 for reasons of confidentiality).

If it is clear that your child would have been offered a place had the admission arrangements been properly implemented the panel must uphold the appeal at this stage, except where a significant number of children are affected and the admission of all of them would cause serious prejudice.

If a failure to comply with the admission arrangements or the Code is not found, and no mistake is identified that prevented your child being offered a place, then the panel will consider whether prejudice would arise from the admission of a further child (or more children in the event of there being more than one appellant).

The panel may ask questions of the School's representative(s) and so may you. If the panel concludes that prejudice exists, it will be necessary to move to Stage 2.

Stage 2: Balancing the arguments

At this stage you present your case and the panel must balance the prejudice that would be caused to the school against the merits of your case, before arriving at a decision. The appeal panel or the School may ask you questions and the School may make additional representations regarding issues raised in the second stage of the hearing. The School will be given the opportunity to sum up any additional issues raised in the second stage and then you will be offered the opportunity to sum up your case. No new evidence should be given in summing up.

The panel will have read what you have written in your appeal form so you will not need to read that out but you may want to emphasise your main points or add some explanation. You might make some written notes beforehand to help you on the day if you are not used to speaking in front of people. The panel and the Clerk will do their best to make you feel at ease, however;

The appeal panel must take into account the reasons expressed for your preference. If the panel considers your case to outweigh the prejudice to the school, it must uphold the appeal.

In multiple appeals, where more than one case outweighs the prejudice to the school, it must uphold the appeal.

In multiple appeals, where more than one case outweighs the prejudice to the school, but the School cannot admit all those pupils, the panel must go on to compare the cases and uphold those who have the strongest case for admission.

Where the appeal panel is considering a number of appeals for the same school, the case put forward by each parent during the second stage is heard individually and confidentially.

No decision is reached on any appeal until all parents' cases have been considered.

Having received all the evidence, the appeal panel must decide whether or not your appeal should be allowed. The panel will do this in private with only the Clerk present. If they conclude that the strength of your argument does not outweigh the prejudice which admission would cause, then your appeal will not be allowed and your child will not be admitted to the school.

11. Can I withdraw my appeal?

You can withdraw your appeal at any time before the hearing. Just call the School (02392 587931).

12. How do I find out what the Panel decided in my case?

The Clerk will notify you and the School in writing of the appeal panel's decision on your appeal, ideally within 5 working days of the hearing, although this may not always be possible where there are multiple appeals. The panel can only allow or disallow your appeal. It has no other functions. Its decision is binding on the School and can be overturned only by the courts.

If you are unsuccessful the LA admissions team will be able to tell you where school places are available. You can contact them directly to discuss your options (see below for details) and make enquiries about places at other schools. If your appeal is successful then the School will contact you to make the necessary arrangements.

13. Will there be any difficulties with the school if my appeal is successful?

No. The School understands how difficult the appeal process can be for parents and will accept the outcome without recrimination. Your child will be welcomed exactly as any other new entrant.

14. Do I have a further right of appeal if my appeal to the Independent Appeal Panel is unsuccessful?

There is no further right of appeal for admission in the same academic year (except where #16 applies), but if you believe that the hearing was not properly conducted then you may complain to the Local Government Ombudsman who will investigate and decide if there has been maladministration. The appeal panel's decision can be overturned only by the courts where the parents or the School are successful in applying for Judicial Review of that decision.

15. Can I complain to the Secretary of State?

The independent appeal panel is an independent body and falls outside the scope of the Secretary of State's powers. The Secretary of State cannot review or overturn decisions of appeal panels, but can consider, under sections 496, 497, 497A of the Education Act 1996, whether:

- (a) The appeal panel was correctly constituted by the School; and
- (b) The School has acted reasonably in exercising functions in respect of the appeal process or whether it has failed to discharge any legal duty in relation to that process eg by failing to constitute the panel properly.

16. Can I reapply for a place at the school in the same academic year?

Only if there has been a significant and material change in your circumstances or those of the School relevant to a further application. If you consider that there has been such a change in circumstances, you should contact the School in the first instance to discuss this.

17. If I accept a place at another school, will it affect my appeal?

No. The panel will not consider that at all. If anything, the panel would regard it as the action of a sensible and caring parent.

18. Will my appeal affect my place on the waiting list?

The waiting list is not relevant to your appeal. Your appeal will not affect your place on the waiting list.

19. What if my child has special educational needs?

If your child has a statement of special educational needs, any dispute about their school placement will be dealt with through the Special Educational Needs and Disability Tribunal (SENDIST) not an Independent Admission Appeal Panel. If your child has special educational needs but does *not* have a statement, the appeal will be considered by the appeal panel in exactly the same way as any other.

20. If I decide to appeal on behalf of my child, what do I do now?

If you decide to appeal you will need to complete the following steps:-

- (1) Check that you have received a written refusal letter or, in respect of applications made in the course of the normal admission round, your allocation letter from your home LA. You are not able to lodge an appeal without having first been refused at your preferred school.
- (2) Complete the notice of appeal form. Before you write anything, read the School's policy, especially the admission criteria, to see which ones might apply to your child. You can include anything you think is relevant. It is helpful to receive all your written evidence at this stage; however you will have a further opportunity to submit any additional written evidence to be included as part of your case once the appeal hearing has been arranged. Details of how to do this and where to send any additional papers will be included in your confirmation letter sent nearer the time.
- (3) Send your completed appeal form and any other supporting documents to the School **within the timescales outlined in the covering letter**. As soon as your notice of appeal is received the appeal process starts. For appeals during the school year (that is, those *not* concerned with admissions to the year of entry in the following September but for immediate admission) the School must arrange for a hearing within 30 school days of the appeal being lodged. Appeals during the normal admission round for the following September will be scheduled to be heard throughout the summer term, but must be heard within 40 school days of the deadline for lodging appeals. For late applications, appeals should be heard within 40 school days from the deadline for lodging appeals where possible, or within 30 school days of the appeal being lodged. Appeals submitted after the deadline must still be heard, but this can be done to a timescale set by the School.

21. What if I need more help?

If you feel you need more help, have a look at:

www.ace-ed.org.uk/advice-about-education-for-parents/Admission_and_Admission_Appeals

or download the booklet "Appealing for a School"

www.ace-ed.org.uk/Resources/ACE/AppealingForASchool_MCIS_Mar2011_LR.pdf

There is also useful guidance at:

http://www.direct.gov.uk/en/Parents/Schoolslearninganddevelopment/ChoosingASchool/DG_4016309

You can find the School Admissions Code and School Admission Appeals Code at:

<http://www.education.gov.uk/schools/adminandfinance/schooladmissions/a00199845/depart-mental-response-to-the-consultation-on-changes-to-the-admissions-framework>