

THE EDUCATION (ADMISSION APPEALS ARRANGEMENTS) (WALES) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2020

CHILDREN'S RIGHTS IMPACT ASSESSMENT

1. Describe and explain the impact of the proposal on children and young people.

The Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 amend certain procedural and constitutional requirements that are set out in the Education (Admission Appeals Arrangements) (Wales) 2005 relating to school admission appeals panels until 31 January 2021.

This change is being made to allow these appeals to continue to be conducted despite significant practical difficulties caused by measures needed to limit the spread of coronavirus (COVID-19). Those measures include the social distancing guidance introduced by the Welsh Government and Public Health Wales, which restrict the ability for parties to meet in person, and the guidance on self-isolation, which cause difficulties in securing sufficient panel members for appeal hearings.

The new regulations will relax current requirements but will maintain obligations around natural justice and procedural fairness. The vast majority of the requirements of the School Admission Appeals Code remain appropriate and must still be complied with. We do not propose to remove any of the clerking duties for admission appeals. Clerks carry out a key role in relation to appeal hearings in providing advice on admissions law as well as keeping an accurate record of proceedings and ensuring that the appeal hearing is fair. Clerks must have a good understanding of the law on admissions and must have received appropriate training that includes equality law. This applies equally to appeal hearings held remotely, or determined on the basis of written submissions only.

Where an appeal cannot take place in person, the appeal panel must take steps to ensure that the parties are able to fully present their cases virtually or in writing, and be satisfied that the appeal is capable of being determined fairly and transparently.

The one-off amendment to these Regulations seeks to safeguard the interests of parents and children and young people by ensuring that school admission appeals are administered in the fairest and most equitable way possible.

Non-statutory guidance will be published alongside the Regulations which makes clear where the School Admission Appeals Code must be complied with, as well as reminding appeals panels of their duties to comply with Equality Act 2010.

2. Explain how the proposal is likely to impact on children’s rights.

Any parent (except one whose child has been permanently excluded from two schools) whose child is refused any school place, or young person who is refused a place in a school sixth form, has a statutory right of appeal to an independent appeal panel (this right of appeal does not extend to applications for nursery education). Parents or young people who have had an offer of a place withdrawn also have a right of appeal.

The temporary changes will be welcomed by parents who must continue to have the right of appeal should they not be happy with the school they have been offered. Safeguards have been built into the Regulations to ensure that appellants still have adequate time and notice to lodge appeals, and that their appeals will continue to be heard fairly, as quickly as possible in the circumstances, and in line with the requirements of natural justice.

To delay all appeals into the autumn or even later would not be fair on parents or children who may have to start at one school and then move to another if their appeal is upheld.

UNCRC Article	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate negative Impacts?
Article 12: respect for the views of the child	<p>There is a potential negative impact on children and young people who (themselves or their parents) are unable to attend their appeals panel virtually due to being digitally excluded.</p> <p>There is a potential positive impact in allowing appellants to still appear at their hearing, which may not otherwise be possible during the coronavirus emergency. This allows the best</p>	The Digital Inclusion Framework, published in December 2010, identified those people who were most likely to be digitally excluded.	<p>Provision for the hearing to take place based on written evidence supplied by the appellant. The Clerk to the Appeals Panel is encouraged to engage with the appellants prior to the hearing to understand their requirements and ensure they are able to participate as fully as possible.</p> <p>The Appeals Code provides that parents may be represented by</p>

	<p>interests of the child to be fully discussed and decided upon.</p>		<p>a friend or advisor to speak on their behalf.</p> <p>Parents retain the right to complain about maladministration on the part of the Appeals panel.</p>
<p>Article 28: right to education</p>	<p>The school admission appeals system works effectively in helping to place every child in a school. Admission appeals panels play a vital role in ensuring a balance between the right of the parents to a full and fair hearing and protecting schools against admitting so many children that it is prejudicial to efficient education or the efficient use of resources.</p> <p>Appeal panels must take into account the general duty of an admission authority to comply with parental preference.</p>	<p>Our aim is to give admission authorities as much flexibility as possible to manage appeals in a way that best suits local circumstances, while also ensuring parents appealing an admission decision this year are supported and are not disadvantaged by the measures in place to protect public health. Ensuring families are still given their opportunity to appeal against decisions as to where children should attend school contributes to a more equal Wales. Ensuring a fair process for admission appeals to take place at this time contributes to children’s rights.</p> <p>The temporary changes aim to ensure that appeals can go ahead and ensure in order that children secure a school place</p>	<p>The new regulations will relax current requirements but will maintain obligations around natural justice and procedural fairness. We do not propose to remove any of the clerking duties for admission appeals. Clerks carry out a key role in relation to appeal hearings in providing advice on admissions law as well as keeping an accurate record of proceedings and ensuring that the appeal hearing is fair.</p> <p>Admission authorities are well-versed with understanding and providing for the needs of families within their locality.</p>

		<p>at the earliest opportunity. To delay all appeals into the autumn or even later would not be fair on parents or children who may have to start at one school and then move to another if their appeal is upheld disrupting their education.</p>	
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