



## Academy admission appeals complaints 2020

This document sets out key data from the Education and Skills Funding Agency's (ESFA) review of complaints about academy Independent Appeal Panels (IAPs) in 2020. It also suggests what steps academies and clerks can take to ensure future appeals are compliant with the School Admission Appeals Code.

In April 2020 temporary regulations ([The School Admissions \(England\) \(Coronavirus\) \(Appeals Arrangements\) \(Amendment\) Regulations 2020](#)) and accompanying guidance ([temporary guidance](#)) were introduced giving admission authorities, local authorities and admission appeal panels more flexibility when dealing with appeals during the COVID-19 outbreak. The main changes were that appeal hearings could be heard by telephone or video conference or appeals could be decided on the basis of written submissions only. There were some amendments to the statutory timescales, however no changes were made to the overall clerking responsibilities. Ensuring an appeal is clerked appropriately and in accordance with the School Admissions Appeals Code remains important and reassuring for appellants.

The temporary regulations have been extended to 30 September 2021 by the [The School Admissions \(England\) \(Coronavirus\) \(Appeals Arrangements\) \(Amendment\) Regulations 2021](#). It must be made clear that the temporary regulations and guidance only apply where it is not reasonably practicable to comply with the School Admission Appeals Code for a reason relating to the incidence or transmission of coronavirus (COVID-19). Therefore, the extension of the temporary regulations does not mean the flexibility will be available for all admission authorities to use all the time. It will mean the temporary arrangements are available to use when they are needed and when they are not, the duty to comply with the School Admission Appeals Code remains.

ESFA received 374 complaints about maladministration by IAPs between 1 April and 31 December 2020. Of these, 123 were in scope and considered further.

We found that overall, the vast majority of IAPs we considered had adhered to the new temporary regulations as well as with the School Admissions Appeals Code. We have included in the findings below some common mistakes in complying with the temporary regulations as well as with the School Admissions Appeals Code.

### Key findings

Although each case is treated individually, our key findings have shown that IAPs make a number of common mistakes. We would like to draw your attention to these and provide you with some advice on what IAPs can do to avoid making these mistakes in the future.

The most common reasons for complaints were about:

- the format for holding the appeal in light of the temporary guidance
- the decision letter being unclear on the reason for the decision

- whether the admission arrangements had been applied properly

Although we did not identify significant issues with IAPs adhering to the temporary guidance, we would like to provide the following reminders based on the complaints that we investigated in relation to it:

- IAPs must be able to evidence that the appropriate consideration was taken regarding the format of holding the appeal, in line with the temporary guidance.
- For appeals based on written submissions, clerks should ensure that comprehensive notes are taken when the panel meet by telephone or video conference to reach a decision.
- Clear guidance should be given to parents relating to the process for appeals conducted based on written submissions.
- The panel must seek to clarify points made by the appellant if needed and take the necessary steps to ensure that both parties are able to fully present their case by way of written submissions.

Of the complaints that we considered, we identified the following general key issues:

- The quality of decision letters was sometimes poor and not written in accordance with 2.25 of the School Admissions Appeals Code. Sometimes decision letters were too heavily based around a template and irrelevant or inaccurate information had been included. We also saw decision letters that were unclear on the factors that had been taken into consideration by the panel in making their decision.
- Sometimes paperwork had not been issued to appellants in good time ahead of their appeal hearing, which could leave appellants feeling that they have little time to prepare for the hearing or left unclear as to whether the panel had received all of their evidence. The case papers must be shared to both parties ahead of the hearing.
- There were times where clerks had failed to accurately record what took place at the hearing, which was often exacerbated by the decision letter not reflecting all of the appellant's points.
- Sometimes it was unclear on the evidence that the panel considered in making their decision, particularly on complaints where the appellants had questioned whether the panel had received a particular piece of evidence if it had not been shared ahead of the appeal. It would be beneficial to list the evidence that the panel viewed in making their decision.

## **Preparation for 2021 round of admission appeals**

You will be in the process of finalising arrangements for this year's round of appeals for September admission. Arrangements must comply with the requirements set out in the School Admission Appeals Code, which you are bound to by the terms of your funding agreement.

IAPs perform a judicial function and must be transparent, accessible, independent and impartial, and operate according to principles of natural justice.

IAP complaints can take several weeks, sometimes months, to resolve, leaving a child and their parents uncertain about their future. To ensure appellants receive a fair hearing and do not need to make a maladministration complaint, we ask you to ensure that the appointed clerk and panel members:

- must be fully trained in admissions law, as should all panel members
- must provide clear written information to appellants in good time before the appeal hearing, as set out in section 2 of the School Admission Appeals Code

- check the Office of the Schools Adjudicator website (if necessary) to ensure they are aware of any determinations about unlawful academy admissions arrangements which may impact the hearing
- must fully explain the process at the start of each hearing so that appellants and panel members are clear on what to expect
- should treat appellants in exactly the same way as representatives of the admission authority
- should properly understand and address each case on its individual merits
- must take full and legible records of proceedings
- provide 'plain English' decision letters, making clear why the appeal has not succeeded, giving clear reasons for the decision and contain a summary of relevant factors that were raised by the parties and considered by the panel. A high proportion of the complaints we investigate are in relation to unclear decision letters not referencing key points of the appellants case.
- make clear to appellants the basis by which complaints can be made to ESFA following an appeal and that they can only be based on maladministration rather than the panel's decision.

As the admission authority you are responsible for ensuring records of proceedings and any other evidence requested from the clerk is made available to the ESFA, including during the summer holiday period.

The online IAP complaint form and fact sheet provide information for those who wish to understand the process following an appeal hearing.

## **Parent Factsheet**

Please ensure a link to the academy independent appeal panel complaint [fact sheet](#) is included in the clerk's decision letter following an appeal.

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