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[Department
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Guidance

Advice for admission authorities on school admission appeals

Updated 30 September 2022

Applies to England



Introduction

This advice is for school admission authorities.

School admission authorities have 2 distinct roles in relation to school admission appeals, to both:

- arrange for an independent appeal panel to hear appeals for a place at your school
- present evidence to the independent appeal panel as to why the admission authority refused to admit the child who is the subject of the appeal

This advice provides information on both.

It provides information about arranging for an independent appeal panel to hear appeals for a place at your school, including:

- setting up independent appeal panels
- making sure that panel members and clerks are properly trained
- making sure that admission appeals are conducted in a fair, transparent and consistent manner

It also provides advice on how an admission authority can present its case to an appeal panel, along with the type of evidence panels may wish to see, to establish if prejudice will occur should the school admit an additional child.

You should read this advice alongside:

- [School Admission Appeals Code](#)
- [School Admissions Code](#)
- other laws that affect admissions and admission appeals in England.

The codes and the legislation underpinning them set out mandatory requirements for admission authorities and take precedence over this advice.

! It's your legal obligation to make sure these duties are met throughout the appeals process.

Informing parents about their right of appeal

Parents of children refused a place at a school they've applied to have the right to appeal to an independent appeal panel. This includes where a child is in the process of, or has already been allocated, an alternative school place, for example via the local [Fair Access Protocol](#) or otherwise.

Where a young person is refused admission by a sixth form attached to a school, they and their parents have the same right of appeal.

When you notify parents of the decision to refuse a place at your school, you must tell them:

- the reason why you refused admission
- about their right to appeal to an independent appeal panel
- how they can appeal

This must include:

- that appeals must be submitted in writing
- the deadline for submitting an appeal
- how to submit an both the appeal

You should also tell parents about their right to be represented or accompanied by a friend, or to request an interpreter.

For infant class size appeals, you must also provide information on the limited circumstances in which a panel can uphold an appeal.

Making arrangements for organising and hearing appeals

You're responsible for arranging appeals against the refusal of a place at your school.

You can do this by:

- establishing your own independent appeal panel
- making joint arrangements for hearing appeals with other admission authorities in the area
- using the appeals service provided by the local authority (there may be a charge for this)
- contracting the process out to a commercial organisation running appeals for schools (there will be a charge for this)

You'll remain responsible for making sure that the appeals function for your school is carried out effectively and in accordance with statutory requirements, even where this is provided by an appeals service.

Setting up the independent appeal panel

You must appoint a clerk to the appeal panel, who is independent of the school and the education functions of the local authority.

The clerk must have knowledge of

- the [School Admissions Code](#)
- the [School Admissions Appeals Codes](#)
- other laws relating to admissions, including equalities legislation.

You must also appoint an independent appeal panel, which must consist of a chair and at least 2 other panel members. The panel members must include:

- a lay person, someone without personal experience of managing a school or the provision of education in a school (except as a school governor or in another voluntary capacity)
- someone with experience in education (such as a teacher), who is acquainted with the educational conditions in the local area, or who is the parent of a registered pupil in a (different) school

You should make sure that you choose panel members who can make fair and objective decisions. For schools with a religious designation, you should not select panel members solely based on their faith.

It's important that panel members are independent and retain their independence at all times.

You should not appoint a panel member whose involvement could raise doubts about impartiality.

This would include:

- employees of the local authority, school or academy trust
- a member or former member of the governing body
- a teacher or teaching assistant at the school
- a person involved in admission decisions at the school
- a member of the local authority
- a close friend of the appellant

You also must not appoint a person who has not had the relevant training to hear school admission appeals.

Regulations disqualify the above categories of people from panel membership.

Training

You must make sure that clerks and panel members have the appropriate and up to date training before taking part in any part of the appeals process.

As a minimum you must arrange and fund appropriate training on:

- the law relating to school admissions and admission appeals
- panel members' duties under the Human Rights Act 1998 and the Equalities Act 2010
- procedural fairness and natural justice
- the specific roles of particular members, such as clerking and chairing skills

It's your responsibility to make sure that appeal panels are set up correctly and with the appropriate training.

Failure to do so could result in complaints, which may result in the need to rehear appeals.

Funding

In relation to centrally retained dedicated schools grant (DSG) funding, local authorities must treat all maintained schools and schools that are their own admission authority in their area equitably.

This is set out in paragraphs 309 to 314 of the [schools revenue funding operational guide](#).

This means, if local authorities retain funding from the budgets of all schools to provide an admission appeals service without charge to community and voluntary controlled schools, they must also provide this service without charge to academies, voluntary aided schools and foundation schools. However, academies, voluntary aided schools and foundation schools can choose to make their own, self-funded arrangements.

Alternatively, where local authorities delegate funding for appeals to all schools in

their individual budgets, they may charge the budgets of their maintained schools for the costs associated with administering admission appeals on their behalf. Academies, voluntary aided schools and foundation schools may also wish to buy into the appeals services provided by the local authority or can make alternative arrangements.

Indemnity

Admission authorities must indemnify panel members against any reasonable legal costs they incur in connection with any decision or action taken in good faith while acting as panel members.

Appeals timetable

By 28 February each year, you must set out on your or the school's website a timetable for organising and hearing appeals.

The timetable must:

- include a deadline for submitting appeals, which allows appellants at least 20 school days from the date of notification that their application was unsuccessful, in order to prepare and submit their written appeal
- ensure that appellants receive written notification of the date and arrangements of their hearing at least 10 school days before the hearing, including whether the hearing will be held in person, remotely or as a hybrid of both, or the appellant is being offered a choice
- include reasonable deadlines for appellants to submit additional evidence not submitted with the initial appeal, for admission authorities to submit their evidence, and for the clerk to send the appeal papers to the panel and parties
- ensure that the panel clerk sends out the decision letters within 5 school days of the hearing wherever possible

You must make sure that the panel hears appeals submitted on time within the following timescales:

- for applications made in the normal admissions round, appeals must be heard within 40 school days from the deadline for submitting appeals
- for late applications, appeals should be heard within 40 school days from the deadline for submitting appeals where possible, or within 30 school days of the appeal being submitted
- for in-year application appeals, the panel must hear appeals within 30 school days of them being submitted

For applications to sixth form:

- where the offer of a place would have been conditional upon exam results, the panel must hear appeals within 30 school days of confirmation of those results
- where the offer of a place would not have been conditional upon exam results, appeals must be heard within 40 school days of the deadline for submitting appeals

If you receive an appeal after the appropriate deadline, you must still arrange for the panel to hear the appeal. Timescales for hearing such appeals should be set out in the published appeals timetable.

The appeal hearing

You're responsible for deciding the format of appeal hearings.

Appeals can be held:

- in person
- remotely by video conference
- a hybrid of the 2 where one or more participants attend in person and one or more participants attend remotely

In some cases, stage 1 and stage 2 of an appeal may be held in different formats.

Appeal hearings can only be held entirely by telephone where video conferencing cannot be used for reasons relating to connectivity or accessibility and if the appellant and presenting officer both agree.

For all appeal hearings, you must make sure that:

- the panel is able to hold the hearings in private
- all panel members and parties are known to be in attendance, whether in person or remotely
- the same panel hears multiple appeals for a school, as far as reasonably possible
- the appeal can be heard fairly and transparently
- parties can present their cases fully and engage in the hearing at all times whatever the format

Admission authorities and appeal panels must comply with their duties under the Equality Act 2010 when deciding the format for appeals and when conducting appeals. This includes considering an appellant's attendance and representation at the hearing and considering any reasonable adjustments that may be needed. For example, an appellant may need to be accompanied by a BSL interpreter.

You should ask for this information when informing the parent of their right to appeal so you can make sure that the necessary adjustments are considered when deciding the format of the appeal. The clerk should make sure that any decisions taken in relation to requests for reasonable adjustments are recorded as part of the appeal record and confirmed with the appellant in writing before the appeal hearing.

When you, or a local authority, inform a parent of their right to appeal, you should provide information about the likely format of the appeal. If relevant, ask them whether they have access to the necessary equipment for an appeal to be held remotely by video conference so that you can take this into account when deciding the format of the appeal.

Some admission authorities may wish to provide appellants who do not have access to the necessary equipment with a suitable venue and equipment for their appeal. However, where an appellant does not have, and cannot be given, access to the necessary equipment or is otherwise unable to present their case to the hearing remotely (by hybrid or telephone hearing), the appeal should take place in person.

You may decide whether to ask appellants if they prefer to attend the appeal in person or remotely.

In person appeals

Appeals where all parties are together in the same physical location.

In addition to the requirements above, you must make sure the venue for the hearing:

- is appropriate and accessible to appellants
- has suitable waiting areas for appellants and presenting officers to wait separately from the panel and each other before and between appeals

Remote appeals

Appeals where all parties attend the appeal remotely should be arranged and conducted primarily by video conference. Where necessary and, if agreed by the appellant and presenting officer, individual participants may join the meeting by telephone.

You must be satisfied that:

- the parties will be able to present their cases fully
- each participant has access to video or telephone facilities allowing them to engage in the hearing at all times
- the appeal hearing can be heard fairly and transparently

You must also have arrangements in place to make sure that one party is not left alone with the panel, through remote connection, in the absence of the other. You can do this by, for example, using any 'waiting room' or 'breakout room' facility that may be available through the remote access platform being used.

You should consider the security of the remote access platforms you're using. You should read the privacy terms and conditions and make sure that, where appropriate, you enable any security features. If you have any concerns, you should consult your IT provider or staff for support.

Appeal panels should bear in mind that appellants may be less familiar with meetings held by video conference. You should therefore consider what additional explanation or support they may need.

Before the hearing, you should inform all parties:

- what platform is being used for the hearing
- how you will send information to them about how to join the hearing
- what to do on the day of the hearing
- who to contact if they experience technical problems on the day

You may also wish to explain how you'll make sure that one party to the appeal is not left alone with the panel in the absence of the other.

On the day of the hearing, the clerk or chair may wish to consider starting the hearing by setting out the ground rules and etiquette for the hearing. This could include:

- the policy regarding recording the hearing
- joining with video switched on
- how to indicate that a participant wants to speak
- use of the chat or notes function

Hybrid appeals

Appeals where some participants attend in person and some join remotely. You may wish to give appellants and presenting officers a choice of how to attend the hearing.

The remote element of the hearing should be arranged to enable participants to join by video conference. However, where necessary and if agreed by the appellant and presenting officer, individual participants may join the hearing by telephone.

You must be satisfied that:

- the parties will be able to present their cases fully
- the appeal hearing can be heard fairly and transparently

Examples of hybrid hearings might include, but are not limited to:

- the panel and clerk attend the hearing in person and the presenting officer and appellant attend remotely
- the panel, clerk and appellant attend the hearing in person and the presenting officer attends remotely

In addition to the requirements above, you must make sure that:

- the hearing is in an appropriate venue that is accessible to appellants attending in person and has the video facilities to support engagement in the hearing at all times
- each participant attending remotely has access to video facilities or telephone facilities allowing them to engage in the hearing at all times
- arrangements have been put in place to make sure that one party is not left alone with the panel, whether in person or through remote connection, in the absence of the other - for example, by using any 'waiting room' or 'breakout room' facility that may be available through the remote access platform being used

Appeal panels should bear in mind that appellants may be less familiar with hybrid hearings. You should therefore consider what additional explanation or support they may need.

Before the hearing, you should inform all parties:

- what platform is being used for the remote element of the hearing
- how you'll send information to those joining remotely about how to join the hearing
- what to do on the day of the hearing
- who to contact if they experience technical problems on the day

You may also wish to explain how you'll make sure that one party to the appeal is not left alone with the panel in the absence of the other.

The clerk or chair may wish to consider starting the hearing by explaining:

- how the hybrid hearing will run
- the ground rules and etiquette for those joining remotely, for example the policy regarding recording the hearing
- how to join with video
- how to show that you want to speak
- how to use any chat or notes function

Telephone appeals

Appeals where all parties attend remotely by telephone can only be arranged where video conferencing cannot be used for reasons relating to connectivity or accessibility and the appellant and presenting officer agree.

You must make sure that:

- consent has been received from the appellant and the presenting officer for the appeal to be held entirely by telephone
- each participant has access to telephone facilities allowing them to engage in the hearing at all times

You must also put arrangements in place to make sure that one party is not left alone with the panel, through telephone conference, in the absence of the other.

You must also be satisfied that:

- the parties will be able to present their cases fully
- the appeal hearing can be heard fairly and transparently

Examples of where a telephone appeal might be appropriate include, but are not limited to:

- broadband connections in an area do not support video conferencing, or affect the reliability of connection, and the parties to the appeal have all agreed to a remote appeal by telephone
- an admission authority has arranged a remote appeal by video conference, but the appellant does not have access to the appropriate technology to join the appeal by video conference and has requested that the appeal goes ahead remotely entirely by telephone and the admission authority and presenting officer agree

Appeal panels should bear in mind that appellants may be less familiar with telephone meetings. You should therefore consider what additional explanation or support they may need.

Before the hearing, you should inform all parties:

- how you'll send information about how to join the hearing
- what to do on the day of the hearing
- who to contact if they experience technical problems on the day.

You may also wish to explain how you'll make sure that one party to the appeal is not left alone with the panel in the absence of the other.

The clerk or chair may wish to consider starting the hearing by explaining:

- how the hearing will run
- how each participant will be invited to take turns to present their case
- how to ask and respond to questions

Multiple appeals

Where you intend using different formats for stage 1 (admission authority's case for refusing admission) and stage 2 (appellant's case for appeal) of a multiple appeal hearing, you must follow the requirements set out in the relevant appeal format section for each stage of the hearing.

Notes and records of proceedings

It's your responsibility to make sure that notes and records of appeal proceedings are held securely for a minimum of 2 years.

Further appeals

If an appellant is unsuccessful in their appeal, they do not have the right to a second appeal for the same school place in the same academic year. However, if you've accepted a second application from them due to an exceptional change in circumstances and you refuse this again, you must give applicants the opportunity to appeal again. You must arrange a second appeal panel with different members from the first.

They may also appeal following the refusal of a school place in subsequent academic years.

Complaints about appeals

You must inform appellants about the arrangements for making a complaint about their appeal, if they believe it was not carried out correctly.

You should provide information about where appellants can direct their complaints and what types of complaints can be investigated.

For complaints about an appeal for a maintained school, you should direct appellants to the [Local Government and Social Care Ombudsman](#).

For complaints about an appeal for an academy, you should direct appellants to the [Department for Education](#).^[footnote 1]

Presenting the admission authority's case to the appeal panel

Once you've made arrangements to hear appeals for your school, your role is then to make the case to the independent appeal panel as to:

- why your school cannot admit any more children
- how admitting more children would prejudice the provision of efficient education or the efficient use of resources

Presenting officer

You must provide a presenting officer to attend the hearing (either in person or remotely, depending on the format of the appeal) and present the admission authority's case to the panel. It's important that you select a member of staff who is well acquainted with the school to carry out this role.

It's likely that the panel will ask detailed and challenging questions about the case being heard and the characteristics of the school, such as:

- the school's capacity
- classroom sizes
- the availability of staff
- the impact the admission of additional pupils will have on resources
- the school's reasons for refusing admission

It's also likely that the panel will question the presenting officer about the school's admission arrangements and how they were applied to the child in question.

If no presenting officer attends the hearing, the panel can decide to proceed with the hearing based on the written evidence submitted by the admission authority, if it's satisfied this will not disadvantage the appellant. It's the panel's discretion whether to postpone an appeal hearing if no presenting officer can attend the hearing.

Production of evidence

You must supply the panel with all it needs to conduct the hearing in a fair and transparent manner.

This includes supplying the clerk with all the relevant documents needed to conduct the hearing, within the timescales set out, including:

- details of the school's admission arrangements
- how the admission arrangements and the coordinated admissions scheme were applied to the child in question
- the reasons for the decision to refuse admission
- an explanation as to how admitting an additional child would cause prejudice to the provision of efficient education or efficient use of resources

You must make sure that you supply the documents in good time before the date of the hearing, as set out in the specified timescales. The clerk is responsible for making sure that all parties to the appeal have the documents a reasonable time in advance.

You must also comply with reasonable requests from parents for information that they need to help them prepare their appeal.

Demonstrating prejudice

Unless you put forward a robust case to show that admitting an additional child to your school would prejudice the provision of efficient education or efficient use of resources, the panel may uphold the appeal in the appellant's favour and you would be required to admit the child.

This means you should aim to show how admitting another child to your school will have an adverse impact on the school's resources and how this will compromise the quality of education received by the existing pupils at the school.

Simply showing that the school has reached its published admission number will not be enough. In both the written statement and at the hearing, you must be able to show prejudice beyond the fact that the school has already reached its published admissions number.

In circumstances set out in its local authority's [Fair Access Protocol](#), an admission authority may be able to refuse to admit a child outside the normal admissions round even though places are available (see paragraph 3.12 of the [School Admissions Code](#)).

If you've refused a place on this basis, you'll need to show how prejudice will occur despite places being available. This may include presenting information in relation to the child in question and how admitting such a child would cause prejudice.

Factors considered by the panel

In making their decisions as to whether or not prejudice will occur if an additional child is admitted to the school, the panel may consider:

- the effect an additional child would have on the school in the current and following academic years as the year group moves through the school
- whether any changes have been made to the school's physical accommodation or organisation since the admission number was originally set for the relevant year group
- the impact of the locally agreed [Fair Access Protocol](#)
- the impact on the organisation and size of classes, the availability of teaching staff and the effect on children already at the school

You should focus on presenting evidence relating to these factors. This could include presenting evidence to show:

- any pressures on staffing and their workloads, for example:
 - numbers of teaching and non-teaching staff and the impact additional children will have on their ability to deliver effective education
 - the number of children with high needs registered on roll and the impact this may have on both teaching and non-teaching staff, as well as the existing pupils at the school
- any restrictions in the school's facilities, for example:
 - classroom sizes and the number of children they can accommodate
 - size of shared spaces such as dining areas, assembly areas, sporting facilities, examination areas and the number of children they can accommodate
 - any pressures on physical space which may result in health and safety concerns

Any evidence must be specific to the school and the impact it'll have on the school in delivering effective education. For example, the comparison of school data with national averages will not be enough to show that prejudice will occur if an additional child is admitted to the school.

Making speculative statements of prejudice occurring in the future, for example speculation about possible budget cuts or the reduction of staffing levels, are unlikely to be enough to show prejudice.

Infant class size appeals

For an infant class size appeal, you should focus on showing:

- how admitting an additional child would breach the infant class size limit
- that the decision to refuse admission was not unreasonable

This could include, if appropriate, showing that you considered the circumstances of the case properly before you decided to refuse admission.

Examples of evidence

Information about the number of teaching staff at the school, and why the school cannot use further teaching staff to accommodate the additional infant aged pupils.

Information on the number of infant classes at the school. The physical size of classrooms may be less relevant in an infant class size appeal, as the legislation limits the size of such classes to 30 pupils per school teacher, regardless of the

physical size of the classroom.

The organisation of classes in the other subsequent years of the infant phase. Panels take into account whether admitting an additional child would breach the infant class size limit, not only in the year in which the parent is seeking a place, but also in all other subsequent years of the infant phase. Admitting an additional child in reception may result in prejudice in the subsequent years of the infant phase. For example, where a school's usual practice is to move from 3 classes of 20 in reception to 2 classes of 30 in year 1 or 2.

The presenting officer should also aim to demonstrate to the panel that how the circumstances of the case were given sufficient consideration, before the decision to refuse admission was made.

1. Responsibility for processing complaints against the appeal panel for an academy transferred from the Education and Skills Funding Agency (ESFA) to the Department for Education on 4 July 2022. The complaints remit is the same as the ESFA's and the guidance on GOV.UK about academy complaints will remain relevant. [↩](#)

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