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Welsh Government
Consultation – summary of response


Changes to School Admission Appeal Arrangements

Consultation on proposals to allow school admission appeals to be held remotely as well as in person (face to face)

April 2023

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

Overview	This document provides a summary of responses to the consultation on proposed amendments to the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 and the School Admission Appeals Code to include an option for appeals to be held remotely as well as in person, or a mixture of both.
Action required	This document is for information only.
Further information	Large print, Braille and alternative language versions of this document are available on request.
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Additional copies	This summary of response and copies of all the consultation documentation are published in electronic form only and can be accessed on the Welsh Government's website. Link to the consultation documentation: Changes to school admission appeal arrangements GOV.WALES
Related documents	Education (Admission Appeal Arrangements) (Wales) Regulations 2005 School Admission Appeals Code 2013

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Introduction

The Education (Admission Appeals Arrangements) (Wales) Regulations 2005 (the 2005 Regulations) prescribe matters relating to appeals against a decision to refuse a child admission to a school. The School Admission Appeals Code (the Appeals Code)¹ ensures that appeals are conducted in a fair and transparent way. The 2005 Regulations and appeals Code apply to admission appeals for all maintained schools in Wales.

The Welsh Government sought views on proposed amendments to the 2005 Regulations and the Appeals Code, which was issued in 2013, to include an option for appeals to be held remotely as well as in person, or a mixture of both (hybrid).

The changes proposed make permanent, with suitable adaptations, some of the flexibilities introduced through temporary regulations, in response to the COVID-19 pandemic, (most recently the Education Admission Appeals Arrangements) (Wales) (Amendment) (Amendment) Regulations 2021) which ended on 30 September 2022. The changes:

- introduce the ability for appeal hearings to be held remotely as well as in person or a mixture of both (hybrid) with some participants attending in person and others remotely.
- give admission authorities flexibility to make the decision whether to offer appeal hearings in person or remotely or a mixture of both (hybrid).
- limit the circumstances where appeals may be held entirely by telephone to where video conferencing cannot be used for reasons relating to connectivity or accessibility and if the appellant and presenting officer both agree.
- allow appeals to be determined on the basis of written information only, in limited circumstance where the presenting officer and/or appellant is unable to attend and not in other circumstances.

The changes apply to both sets of admission appeal hearings dealt with under the Appeals Code: (appeals against an admission authority's refusal to admit a child to their school and appeals by governing bodies against a local authority's decision to admit to their school a child who has been permanently excluded from two or more schools).

We also took the opportunity to consult on a number of minor technical drafting changes to certain provisions of the current Appeals Code, including to update references to legislation.

Summary of Responses

The consultation ran from 18 January to 22 March 2023. We received a total of 50 responses, of which 18 were from local authorities, 3 from Diocesan authorities, 1 from a school and 5 from admission appeal panel members. A further 7 responses

¹ [School admission appeals code | GOV.WALES](#)

were from other organisations including the Catholic Education Service (CES), Estyn, The Children’s Commissioner for Wales, UCAC, NAHT Cymru, The Equality and Human Rights Commission, and The Royal British Legion. The remainder of responses were anonymous. A list of organisations which responded can be found at **Annex A**.

Most of the questions asked for an ‘agree’, ‘disagree’, or ‘neither agree nor disagree’ response, along with any supporting comments. Not all respondents answered every question. However, all responses that answered at least one question or provided comments on the proposals were considered. Percentages shown in each of the tables below are based on the number who responded to that particular question. This summary is not an exhaustive record of all the comments made, and the absence of a particular issue does not indicate that it has been ignored or is less important.

Analysis of Consultation Responses

In this summary we have grouped the analysis of consultation responses in the same way the questions appeared in the consultation document.

Consultation Questions

Question 1

Do you agree that the 2005 Regulations and the School Admission Appeals Code should include an option for holding appeals remotely?

	Number	Percentage
Agree	46	98%
Disagree	1	2%
Neither agree nor disagree	0	0%
Total	47	100%

The vast majority (98%) of respondents agreed that an option should be included for appeals to be held remotely.

Twenty-five respondents provided comments, with many citing the benefits of remote appeals in terms of time and cost savings for local authorities, appellants, admission authorities and appeals panel members including arranging and paying for venues, travel to venues, cost of childcare and the time working families have to take off work to attend an appeal.

The perception from a number of local authorities and admission authorities, having experience of remote appeals during the Covid pandemic, was that parents found taking part in an appeal from their home less intimidating and were more at ease with the process. One local authority said that they struggled to get panel members, many of whom were elderly, to attend in person, due to concerns about contracting

Covid or other seasonal illnesses.

Question 2

Do you agree the following formats allow for a fair and transparent appeal hearing?				
Format	Face to Face	Telephone Conference	Video conference	Written Submission
Agree	45 (96%)	17 (37%)	45 (96%)	17 (36%)
Disagree	1 (2%)	17 (37%)	1 (2%)	16 (34%)
Neither agree nor disagree	1 (2%)	12 (26%)	1 (2%)	14 (30%)

The majority of respondents (96%) agreed that appeals held face to face or remotely by video conference allowed for a fair and transparent appeal hearing.

There was a more qualified response for appeals held by telephone conference with 37% agreeing they allowed for a fair and transparent hearing and 37% disagreeing. The main issue was the inability for panels to see the expressions of those attending and to be able to pick up on their body language and visual clues to interpret the need for support.

Whilst recognising the importance of being able to see and hear appellants, some respondents acknowledged that there may be rare exceptions where this is not possible, and that telephone and written submissions would be useful as an alternative option when face to face or video conference is not possible due to parents' circumstances.

The Royal British Legion welcomed the different format options, pointing out that when dealing with members of the Armed Forces, flexibility should be offered, for example, there may be difficulty accessing a reliable internet connection for a video conference and therefore a telephone conference or written submission may be the best option for deployed parents.

One local authority stressed that they would not offer a remote telephone hearing unless required as an emergency/back up, for example, due to loss of internet connection.

Welsh Government response

We are proceeding with changes to the Education (Admission Appeal Arrangements) (Wales) Regulations to include an option for appeals to be held remotely, as well as face to face. The Admissions Appeals Code will reflect this. Appeal hearings are not public meetings, and there is no need for them to take place in a public forum.

We recognise some of the concerns raised in relation to appeals held by telephone, which is why we have limited the circumstances in which appeals can be held entirely by telephone to where video conference cannot be held due to connectivity or accessibility issues, and where the appellant and presenting officer agree. The

majority of respondents (77%) agreed that appeals held by telephone conference should be limited in this way (see response to question 4 below).

With regards appeals determined based on written information provided only, the position on written appeals is set out in paragraph 4.13 of the 2013 Appeals Code. We are not making any changes to the limited circumstances in which appeals are determined based on written information only, contained in the 2013 Code as a result of the consultation.

Question 3i

Do you agree that admission authorities should make the decision on whether to offer appeal hearings in person, remotely or give a choice to attendees for either? If you disagree, please suggest who should make the decision.

	Number	Percentage
Agree	27	63%
Disagree	12	28%
Neither agree nor disagree	4	9%
Total	43	100%

Question 3ii – What factors should be taken into account in reaching this decision?

The majority of respondents (63%) agreed that admission authorities should make the decision on whether to offer appeal hearings in person or remotely or a mixture of both. Some of those who disagreed felt that appellants should make the decision.

Respondents were asked what factors should be taken into account when deciding the format in which to offer appeals. The most popular factor put forward was the appellant's preference for the format of appeals. One respondent stressed that it is imperative however, that there is no scope for lengthy and time-consuming disputes about the format for hearings.

Several other respondents stressed the importance of ensuring that the necessary technology is available for parents if the hearing is to be heard remotely to ensure that they are not disadvantaged if they do not have the necessary equipment.

Welsh Government Response

The new Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023 provide that an admission authority may only decide to hold an appeal hearing remotely or partly remotely and partly in person (hybrid) provided appellants and admission authorities are able to present their case fully and each participant has access to the electronic means to allow this to happen.

Question 4

Do you agree that appeals held entirely by telephone should be limited to where video conferencing cannot be used for reasons relating to connectivity or accessibility, and only if the appellant and presenting officer both agree?

	Number	Percentage
Agree	36	77%
Disagree	5	10%
Neither agree nor disagree	6	13%
Total	47	100%

The majority of respondents (77%) agreed that appeals held entirely by telephone should be limited to where video conferencing cannot be used for reasons relating to connectivity or accessibility, and only if the appellant and presenting officer both agree.

Whilst acknowledging that face to face and video schools were the best option one respondent accepted that there may be exceptional scenarios where telephone conferencing might need to be used.

The Royal British Legion (RBL) welcomed the inclusion of telephone appeals but encouraged authorities to take into account additional reasons that a telephone may be the most appropriate format outside of the restrictions of accessibility and connectivity. Whilst RBL recognised that telephone is not always the best format, they felt that it should be considered that if a parent is being deployed or works in a restricted environment, it may not be appropriate for video conference to be used due to GDPR or national security. RBL said they would encourage local authorities to be flexible in their decision about the use of telephone appeals and take into consideration the unique working environment and commitments of service life.

Question 5

Do you agree that appeals should only be considered on the basis of the written evidence submitted only where either:

- a) the presenting officer does not attend, and the appeal panel is satisfied that it can resolve the case by using evidence submitted by the admission authority, if the appellant will not be disadvantaged in doing so?

	Number	Percentage
Agree	26	58%
Disagree	13	29%
Neither agree nor disagree	6	13%
Total	45	100%

or

b) the appellant fails or is unable to attend and it is impractical to offer an alternative date?

	Number	Percentage
Agree	28	67%
Disagree	6	14%
Neither agree nor disagree	8	19%
Total	42	100%

Welsh Government Response

The position on written appeals is set out in paragraph 4.13 of the 2013 Appeals Code. We are not making any changes to the limited circumstances in which appeals are determined based on written information only, as currently set out in the 2013 Code as a result of the consultation.

Question 6

Do you agree that hybrid appeal hearings should be an option? (By 'hybrid' we mean where one or more participants join remotely, by video conference or telephone, and one or more attend in person).

	Number	Percentage
Agree	34	72%
Disagree	9	19%
Neither agree nor disagree	4	9%
Total	47	100%

The majority of respondents (72%) agreed that hybrid appeal hearings should be an option. Some welcomed the flexibility this offered, with one stating that this would be particularly helpful where some participants lived in more rural areas.

Whilst agreeing that hybrid meetings should be an option one respondent stressed that consideration should be given as to how the appellant could be supported so that they are not disadvantaged in any way, for example if they did not have access to suitable video conferencing facilities. Other respondents said that it should be ensured that the technology is in place works properly and that the standard is acceptable.

Those who disagreed or were unsure stressed that the technology would need to support this, and the appeal would need to be effectively managed.

Welsh Government Response

The new Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023 provide that the admission authority may decide that an appeal will

be decided on the written information submitted if either the presenting officer or the appellant are unable to attend on the date of the hearing.

Question 7

Do you agree that hybrid appeal hearings can be conducted in a fair and transparent way which enables the appellant and presenting officer an opportunity to present their case?

	Number	Percentage
Agree	35	74%
Disagree	6	13%
Neither agree nor disagree	6	13%
Total	47	100%

Welsh Government Response

The majority of respondents (72%) agreed that hybrid appeals should be an option. 74% of respondents felt that hybrid appeals could be conducted in a fair and transparent way. It will be for admission authorities to decide whether or not to use this flexibility.

The new Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023 provide that an admission authority may only decide to hold an appeal hearing remotely or a hybrid meeting provided parties are able to present their case fully and each participant has access to the electronic means to allow this to happen.

Question 8 (for local authorities)

Do you agree the proposed Appeals Code will result in new costs/savings for local authorities? Please explain why and what estimation can be made of these additional costs/savings – this may include, for example, organisational, staffing, venue, travel and technology costs/savings

	Number	Percentage
Agree	24	80%
Disagree	1	3%
Neither agree nor disagree	5	17%
Total	30	100%

The majority of respondents (80%) agreed that there would be new savings for local authorities. This included the time and cost of arranging and paying for venues, travel costs and other expenses and time taken off work by staff and appellants to attend appeals, including where several appeals are heard in one day. One local authority identified costs of monitors for appeal panel members during the Covid pandemic but said that this was offset by the savings achieved.

Local authorities were asked to explain what estimation can be made of these additional costs/savings. To give an indication one local authority pointed out that prior to the pandemic the local authority always had to pay independent providers for conference rooms at an average rate of on average £200 per day. There were additional costs on top of this including travel costs of panel members travelling costs and subsistence. The same authority recently had to book a conference room at an independent venue for a two-day hearing which cost them £800 in total. Another authority estimated savings of several thousand pounds a year, based largely on travel costs, not including savings of travel costs for appellants.

One other local authority said that travel and subsistence costs for panel members are dramatically reduced, which has offset the cost of monitors purchased for panel members to connect to their own PC/laptop. This has resulted in an average saving of 75% per year for the last 3 years.

These estimated costs are reflected in the Regulatory Impact Assessment which accompanies the regulations.

Welsh Government's response

We are giving admission authorities the flexibility to hold appeals remotely as well as face to face or a mixture of the two (hybrid) with some attendees taking part remotely and others face to face. We are not placing any additional requirements on admission authorities. The decision on whether to hold appeals remotely lies with the admission authority. There is no duty on admission authorities to hold appeals remotely. Admission authorities made use of remote appeals during the Covid-19 pandemic, and many reported time and cost savings as a result.

Question 9 (for schools)

Do you agree the proposed Appeals Code will result in any costs/savings for schools? Please explain why and what estimation can be made of these additional costs/savings.

	Number	Percentage
Agree	13	46%
Disagree	3	11%
Neither agree nor disagree	12	43%
Total	28	100%

The majority of respondents (46%) agreed that the proposed Appeals Code will result in savings for schools although 43% disagreed.

One diocesan authority pointed out that there would be savings for schools (*that are their own admission authorities*) including time and cost of arranging venues, travel costs for staff and presenting officer to attend, along with costs of additional cover for staff and travel time to attend appeal venues.

Another respondent pointed out that local authorities have a duty to provide sufficient funds for schools to run appeals but that some schools may however see a cost saving, particularly where they have teaching headteachers, as online meetings will require those members of staff to spend less time away from school and less cover will therefore be required.

Question 10

Minor technical drafting changes were made to the draft Appeals Code to ensure is up to date – these include changes to legislation, other educational codes of practice and departmental names. We asked respondents to provide any comments you have on the proposed changes. Respondents agreed with the amendments.

Welsh Government Response

Some further technical changes have been made to the Appeals Code to reflect consultation responses. This includes updating the Code to reflect the Additional Learning Needs and Education Tribunal (Wales) Act 2018. We have also included further information on the Equality Act and the Wales specific duties and signposted to the Equality Advisory Service (EASS) for expert advice on discrimination and human rights issues. A number of other changes have been made to correct typographical or grammatical errors. These are listed in the table at Annex B.

Question 11

We would like to know your views on the effects that the proposal to allow appeal hearings to be held remotely or in person would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English. What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

We received 25 responses to this question. Thirteen of those who responded, which included 11 local authorities, pointed out that the option to hold appeals remotely would have no effect on the Welsh language, as translation facilities would be provided as necessary, regardless of whether the appeal was in person or remotely.

Nine of those who responded felt that there would be a positive effect as simultaneous translation is easier to facilitate online. One local authority pointed out that the ability to hold appeals remotely would increase the availability of their Welsh speaking panel members as less of their time would be taken up travelling to venues.

Two respondents felt that the positive effects could be increased by ensuring translation facilities of the highest quality are available so that the hearings can be held in Welsh or bilingually in accordance with the wishes of attendees. One suggested the use of software with translation services. Another suggested recruiting more Welsh speakers or using simultaneous translation.

Question 12

Please also explain how you believe the proposed policy to allow appeal hearings to be held remotely or in person could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

Comments received:

One respondent suggested that the admission appeals documents should make it clear that any communication including appeals, whether remotely or in person, can be through the medium of Welsh or English. Suitable translation and interpreting facilities should be provided to ensure that this can happen.

Welsh Government Response

The Appeals Code has been updated to reflect the Welsh Language Standards.

Next Steps

The Welsh Government would like to thank all those who took the time to respond to this consultation. Responses have been taken into account in developing the Education (Admission Appeals Arrangements) (Amendment) (Wales) Regulations 2023. The draft 2023 Regulations will be laid before the Senedd on 12 April 2023 and are expected to come into force on 3 May 2023. The changes will have effect once the 2023 Regulations come into force. The draft school admission appeals Code reflects the Regulations and will be laid before the Senedd and will come into force in due course.

Annex A – List of respondents

Bridgend County Borough Council

Cardiff County Council

Denbighshire County Council

Newport City Council

Powys County Council

Ysgol Brynhyfryd

Archdiocese of Cardiff

Llandaff and Monmouthshire Diocese

Catholic Education Service (CES)

Estyn

National Association of Head Teachers (NAHT) Undeb Cenedlaethol Athrawon Cymru (UCAC)

The Royal British Legion

The Equality and Human Rights Commission (ECRC)

The Children's Commissioner for Wales

Other respondents chose to remain anonymous.

Annex B – Technical Changes

Location	Change	Reason for change
Section 1	Para1.4	Replaced the word ‘this’ with ‘the’ and added the word ‘with’ i.e., The Code refers to statutory requirements (i.e., imposed by primary or secondary legislation) and imposes mandatory requirements with which those bodies listed at paragraph 1.1 above must comply.
Section 2	Para 2.10	Although the following sentence was included in the consultation draft it was not included in the list of technical amendments “Admission authorities should consider what scope there is for co-ordinating training and LAs and governing bodies of schools will benefit from sharing information and good practice with each other.
Section 3	Para 3.11	Inserted the word “the” in the sentence i.e., The presenting officer should avoid contact with the panel in the absence of the other parties.
Section 4	Para 4.5	We have referenced paragraph 4.13 in relation to the limited circumstances in which written appeals can take place i.e., It is particularly important that LAs and governors inform appellants that regardless of whether appeals are held remotely or in person they have a right to make oral representations at their appeal hearing (<i>but see paragraph 4.13</i>), and that this is their opportunity to make the appeal panel fully aware of all the facts of their case before making its decision.
Section 4	Para 4.6	We have extended this paragraph to make reference to the Welsh language and accessibility in relation to technology.
Section 4	Para 4.8 bullet point 2	Amended ‘and’ to ‘to’ i.e., Notification of whether any witnesses have been invited to give evidence at the hearing (see paragraphs 4.17 to 4.19).
Section 4	Para 4.13	We have included reference to ‘remote access’ and ‘hybrid hearings’, provided definitions of these in the footnote and included a footnote on the Equality Act 2010.
Section 5	Para 5.13 bullet point 2	Added the word ‘the’ i.e. Where a sixth form is wholly selective by high ability or by aptitude and the admission of the pupil would be incompatible with such selection under the admission arrangements.
Section 5	Paragraph 5.19 1(c) and point 2	<p>Added the word ‘it’ i.e. The appeal panel must uphold the appeal at the first stage if it is not satisfied at the first stage that there would be prejudice if the child or young person were admitted to the school.</p> <p>Removed the word ‘the’ i.e. The panel will need to consider the wider consequences for the admission authority in complying with the appellant’s wishes and how serious those consequences would be for both the authority and other children/young persons.</p>

Section 6	Para 6.14 bullet point 1	Amended the word “correctly” to “incorrectly” removed the words and/or and removed text repeated in first bullet point. <i>The Welsh Ministers cannot review or overturn decisions of individual independent appeal panels but can consider whether to exercise their powers of intervention if:</i> <ul style="list-style-type: none"> • <i>the panel was incorrectly constituted by the admission authority</i> • <i>the admission authority has acted unreasonably in exercising functions in respect of the appeal process or has failed to discharge any legal duty in relation to that process, e.g., acting in breach of the mandatory provision of this Code.</i>
Section 6	Para 6.15	Reinstated wording from the 2013 Code. Although this also appears in A. 28 i.e., 6.15 An appeal panel’s decision can only be overturned by the courts where the appellants or admission authority are successful in applying for Judicial Review of that decision.
Annex A	Paragraph A.7 bullet point 1	Added ‘local’ i.e., local authority.
Annex C	Paragraph C.18 (2) and footnote	To clarify the definition of looked after children and previously looked after children admitted outside the school admissions round.
Glossary		A definition of remote access has been included