

Appeals Guide for Parents and Carers

The following information about the appeals process is intended to assist you in presenting your individual case to the Independent Appeal Panel ('the Panel'). It is suitable for all appellants, whether or not you plan to attend your appeal hearing.

The specific role of a Panel is to consider, with regard to a particular school, the case put forward by the Admission Authority for refusing to admit a child and the parent's/carer's case for wanting their child to be admitted. A Panel can either allow or refuse an appeal. It has no other powers. A Panel's decision is binding on the school, the Admission Authority and you, the appellant.

A Panel may not consider complaints or objections on the wider aspects of local admission policies and practice.

How does the Panel make its decision?

Once the appeal hearing has been held, the Panel will consider in private the written and oral information presented by the Admission Authority and the appellant. The Panel will usually make its decision as to whether to allow or refuse the appeal on the same day as the hearing or, if there is more than one appeal for the same school, on the last day of the hearing. However, the decision will not be given to the appellant on the day of the hearing. The Clerk will set out the Panel's decision in writing in a letter which will be posted within five days of the date of the hearing.

The Panel will take into account the following matters in reaching a decision in each individual case.

1. Infant Class Size appeals (these only relate to children entering Reception, Year 1 or Year 2 where an Admission Authority has based its case on infant class size)

The law requires that infant classes of 5, 6 or 7 year olds may not normally contain more than 30 children with a single qualified teacher. As such, there are only three grounds on which appeals in this category can be allowed.

- That the child would have been offered a place if the admission arrangements had been properly implemented. *Here, the Panel must be satisfied that the admission arrangements were not applied correctly and that, if they had been, the child would have been offered a place.*
- That the decision to refuse admission was not one which a reasonable admission authority would make in the circumstances of the case. *The law defines 'unreasonable' very narrowly in these cases and it means a decision that is totally irrational within the terms of the admission authority's legal responsibilities and administrative law. The Panel must use the legal definition of 'unreasonable' and not their own personal definitions.*

- That the child would have been offered a place if the admission arrangements had not been contrary to mandatory provisions in the School Admissions Code and in the School Standards and Framework Act 1998.

If the Panel decides that the answer to any of these is yes, then an appeal will be allowed; otherwise, the appeal will be refused.

It is important that parents be realistic about reasons for appealing and the chances of being successful in an infant class size appeal. Due to these legal limitations, an Appeal Panel cannot take into account your personal reasons for wanting a place at the school for your child, so you will need to be sure that your reasons for appealing fits one of three legal grounds above.

To win an infant class appeal in the normal admissions round you need to show that an error was made in implementing the school's admission arrangements and that a place ought to have been offered; or that the admission authority's decision to refuse a place was not one which a reasonable admissions authority would have made in the same circumstances.

To find a decision to be unreasonable the panel would need to be satisfied that the decision to refuse admission was 'perverse in the light of the admission arrangements'. In other words, the panel believes that no reasonable admission authority considering the matter could have come to the same decision.

What seems clearly 'unreasonable' to an individual family is often not what an appeals panel would understand by the term. It needs to be a very compelling reason: For example, a decision that makes it impossible for you to transport all your children to school on time or when the school you have been offered doesn't fit with your commuting journey/won't enable a grandparent to pick up/will mean you have children at different schools - is unlikely to be considered perverse, however a decision to refuse a place for a child whose family had to relocate under a witness protection scheme might persuade the panel to decide to over-ride the statutory requirement that Reception classes not go over 30.

It is also likely that an Appeal Panel would consider it reasonable for a child to be refused a place at their nearest school if other children had higher priority for the places available, even if this resulted in you being offered a school place some distance from your home.

In 2021, out of the 48 reception appeals that were heard between 17 April and 1 September 2021, 1 appeal was allowed.

2. Appeals for all other children (Years 3-6 and all secondary school)

There is a two-stage process for reaching decisions on these appeals.

Stage 1 – factual stage

The Panel must consider if the School's published admission criteria were applied correctly and if the admission of an extra child would be 'prejudicial to the efficient education or efficient use of resources' at the School. If the School is full or above its published admission number for the year group applied for, in presenting its case the Admission Authority will identify the factors that demonstrate the 'prejudice' that would be caused by the admission of an extra child or children. These factors may include the additional workload on teaching staff, the number of existing pupils with special educational needs, class size and organisation, physical accommodation available, health and safety and the availability of places at other schools.

If the Panel decides that the admission arrangements were applied incorrectly and that the child would have been offered a place had they been applied correctly, they will uphold the appeal. Similarly, if the Panel decides that the admission of an extra child would not prejudice the provision of education at the School, it will uphold your appeal. Otherwise, the Panel will go to stage 2.

Stage 2 – the balancing act

The Panel will consider the appellant's reasons for wanting their child to attend the School. It will make a 'balancing judgement' and consider whether the reasons for the child going to the School in question outweigh the prejudice to the School. If the Panel decides that your case is stronger it will allow your appeal and the Admission Authority is then under a duty to admit your child to the school. Alternatively, if the Panel decides that the School's case is stronger, it will dismiss your appeal.

In 2021, out of the 39 secondary transfer appeals that were heard between 2 March and 1 September 2021, 6 appeals were allowed.

How can you prepare for your appeal hearing?

The Department for Education (DfE) has provided schools and local authorities with updated guidance about how school appeals can be heard in light of current coronavirus restrictions. School Admission Appeal Panel Hearings will continue to take place virtually. Hearings will be conducted by telephone or video conference using MS Teams. Where telephone or video conference is not possible, appeals will be conducted entirely on the basis of written submissions. Appeals are usually heard during the daytime. You will receive at least 14 days' notice of the date and time of your appeal hearing. The hearing will normally last about 15 minutes, but there are no restrictions if more time is needed. As the Panel is likely to be considering other appeals on the day of your hearing, it is possible that delays may occur.

Before the hearing date you, the Admission Authority and the Panel members will be sent the papers for your case, regardless of whether or not you are planning to attend.

Before the hearing you are encouraged to review the information that you have submitted in relation to your appeal and to consider the following actions:

- Read all the information on the procedures for the hearing that are set out in the correspondence that will be sent to you
- Ensure you submit any relevant paperwork to support your appeal for the Panel's consideration regardless of whether or not you are planning to attend.
- Consider what you would like to say when the Panel invites you to explain your reasons for wanting your child to attend your preferred school, and any questions you may have about your appeal.
- Consider the Admission Authority's case (which will be included in the papers you receive before the hearing) and consider any questions that you may have on that case.
- Decide who will attend the hearing. You may bring a family member, a friend or other representative to help you make your case or simply to give you support.

Appellants are free to have legal representation at the hearing if they wish but this ought not to be necessary and will be at their own expense. The hearing is not intended to be a platform for a debate on the law and if legal points are raised during the hearing the Panel need only take note of the points raised rather than respond to them. It can also decide to take its own legal advice later before making its decision on the appeal. If you do decide to have a legal representative with you at the hearing you should inform Democratic Services.

Please note that representatives of the school for which you are appealing cannot support individual appeals for places at their school at the hearing itself or by providing letters of support for appellants because of possible conflicts of interest and the possibility of unfairness to other appellants.

Occasionally, parents/carers ask if their child can attend the hearing. As the appeal is about the refusal of a parent's statutory right to express a preference for a particular school, attendance can be distressing for some children and, unless there are exceptional circumstances, you are encouraged not to invite children to attend the hearing.

If you need an interpreter or any other type of assistance to help you at your hearing, please ensure that you contact Democratic Services as far in advance of the hearing date as possible so that appropriate arrangements can be made.