

## Guide for parents and guardians on school admission appeals

If your child has been refused a place at the school you wanted, or if you are unhappy with the alternative school your child has been allocated, you have the right of appeal to an Independent Appeal Panel. This applies to all schools including Academies, but not special schools and independent (fee-paying) schools.

This advice is for parents who applied for a place at a school that was refused and may be considering appealing the decision.

It provides information about:

- what you should consider before making the decision to appeal
- how you can exercise your right of appeal
- what you can expect at each stage of the appeals process

This advice is based on the statutory guidance as set by the Department for Education (DfE):

- [School Admissions Code](#)
- [School Admission Appeals Code](#)

These documents set out the legal requirements which admission authorities, appeal panels and clerks must follow.

### **Your right of appeal**

If you've applied to a school and it does not offer your child a place, you have the right to appeal this decision.

If you or your child applied to a school sixth form and it does not offer your child a place, both you and your child can appeal the decision.

You can only appeal once for a place in the same school in the same academic year.

However, if an admission authority accepts a second application from you because there has been a significant change in circumstances but again decides not to offer your child a place, you can appeal this second decision.

If you have been offered a school place but it's not in the year group you would like, you would not have the right to appeal this decision. However, you may make a complaint about this decision through the admission authority's formal complaints procedure.

### **Things to consider before you appeal**

There are things you need to consider before you make a school admission appeal. You will have to set your appeal out in writing and attend an appeal hearing.

You should be aware that an appeal can prolong the period of uncertainty for parents and children, so it's important to be realistic about your reasons for appealing and the chances of being successful.

This is particularly the case if you're appealing a decision refusing your child a place to an infant class (such as reception, year 1 and year 2), where the law prevents a school from admitting more than 30 pupils per teacher, other than in specific exceptional circumstances. As such, there are limited circumstances in which an appeal panel can uphold an infant class appeal.

You should also consider accepting any offer of a school place you receive to make sure that your child has a place should your appeal not be successful. Accepting another offer will have no bearing on your appeal and the appeals process does not limit other options available to you.

Before you make an appeal, it will also be helpful for you to understand how the school allocated their places, so you can understand why your child did not get a place. A school's admission arrangements can be found on the school's or council's website.

When a school receives more applications from parents than it has places available, not every child can be successful in securing a school place. The admission authority will use its admissions criteria, also known as oversubscription criteria, to decide which children to allocate places to.

The admissions criteria sets out the order in which they will allocate places.

In the interest of fairness and transparency, admission authorities must allocate all places at their schools according to their published admissions criteria.

Information about a school, its admission authority and its admission arrangements can be found on the school's or local authority's website.

## **Reasons for refusing admission**

The appeals process can be burdensome for all involved, so admission authorities do not take lightly the decision to refuse a child a school place.

Your admission decision letter should give the reason why your child was refused a place at your choice of school. You can contact the admission authority for more details. Contact details of the school's admission authority should be on your admission decision letter.

In most cases your child will not have been offered a place because there were other children who more closely met the school's oversubscription criteria.

If you made an application outside the normal points of entry, typically at reception and year 7, it's likely that the school was not able to offer your child a place because the year group you applied for is full.

## **Your case for appeal**

It's important that you clearly set out the reasons why your child should have a place at your choice of school in both your written appeal and at the appeal hearing.

You can make an appeal because you want your child to attend a particular school over any other, but the stronger your reasons the better chance you have of your appeal being successful.

For example, wanting your child to go to a particular school because it's the best in the area is not likely to convince the panel that your child should get a place at the school over another child.

You should focus on what the school can offer that meets your child's needs. This can include what the school can offer that other schools cannot and what the impact will be on your child in not attending the school of your choice.

You can also appeal if you believe that the admission authority did not apply their admission arrangements properly and if they had applied them properly, they would have offered your child a place at the school.

## **The appeals process**

The admission decision letter informing you that your child was refused a place at your preferred school will:

- explain how you can appeal this decision

- tell you where to send your appeal to, and the deadline for appealing

You will need to submit your appeal in writing. If you have trouble completing this form due to a disability or a need for translation services, contact the admission authority for advice. If you believe there has been a mistake (for example, the admissions criteria have not been applied correctly) you should set out why the admission authority should have offered your child a place. Whether or not you believe there has been a mistake, you should explain why you believe the school should admit your child anyway.

You will usually (during a normal admission round) appeal to the admission authority of the school. They should allow you at least 20 school days ahead of the set deadline to write and send in your appeal.

If you cannot send all the information and supporting evidence you want to at the time you submit your appeal, it's important you send it before the deadline given by the admission authority.

This is because the appeals clerk needs to send it to the appeals panel and admission authority for them to consider before the hearing. If you submit anything after the deadline, panels can refuse to accept it as they may not have had time to consider it or it may delay your hearing.

### **Appeal hearings**

The admission authority will decide the format of the appeal hearing. Your appeal may take place in person or remotely by video conference, or a hybrid of the two - 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 you and the presenting officer both agree.

Admission authorities must make sure that all appeals are conducted in a fair and transparent way whatever the format and that parties can present their cases fully and engage in the hearing at all times.

The appeal panel will put in place arrangements to make sure that one party is not left alone with the panel, either in person or through remote connection, in the absence of the other. For remote and hybrid hearings this may involve using 'waiting room' and 'breakout room' facilities.

The admission authority and appeal panel must comply with their duties under the Equality Act 2010, which protects people from discrimination in the workplace and in

wider society. They will ask you whether you need any reasonable adjustments to be made in order to take part in the appeal, for example, if you need a British Sign Language (BSL) or language interpreter or another reasonable adjustment relating to a disability.

They may also ask you if you have access to the necessary equipment for an appeal to be held by video conference. They may, but they are not required to, give you a choice about how you attend the appeal. Regardless of the format chosen, the appeal panel must allow you the opportunity to make oral representations.

Once you have submitted your appeal the admission authority will let you know the time, date, format and either the location of your appeal hearing (if you're attending in person) or the joining instructions (if you're attending the appeal remotely). You will be given at least 10 school days' notice, unless you have said that you do not need this much notice.

### **Who takes part in the appeal hearing?**

There will usually be the following people at the appeal hearing:

#### **The independent appeals clerk**

They are responsible for all the administrative arrangements for the appeal. They will explain everything that will happen on the day of your appeal hearing and what will happen after your hearing. They will also be able to give you independent and impartial advice on the appeals process and admissions law.

#### **The independent appeals panel**

They make the decision on whether to uphold or dismiss your appeal. There are usually 3 people on the panel, which will include a chair and at least 2 other panel members.

If the panel upholds your appeal the admission authority must offer your child a place at the school. If the panel does not uphold your appeal, then the admission authority will not offer your child a place at the school.

#### **The presenting officer**

They are a representative of the admission authority, usually referred to as the presenting officer. They will be there to present the school's case for why they refused your child a place at the school. There can be more than 1 representative at the hearing.

## **Appellant**

This is you (parent or guardian). You must present the reasons why you believe the school should admit your child. You can be represented, and you can take a friend, family member or someone else with you for support at the hearing. If you require an interpreter, you can request one.

If you or the school's presenting officer fail or are unable to attend, the appeal hearing may still go ahead. The appeal panel may make a decision based on the written evidence, unless it's practical to arrange an alternative date that you can attend.

### **What happens at an appeal hearing?**

It's important you understand what will happen at an appeal hearing so that you can be prepared. First, the clerk or the chair of the panel will introduce everyone to the hearing. They will explain everything that will happen during and after your hearing.

If you or any other participants are joining the meeting remotely, they may explain the ground rules and etiquette for the hearing, for example:

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

For a telephone hearing, the clerk or chair may explain how the hearing will run and how you will be invited to take turns to present your case and to ask and respond to questions. They may also explain how they will make sure that no party is left alone with the panel.

The panel will then usually hear the appeal in 2 stages.

First, it will ask the presenting officer to present the admission authority's reasons for refusing to admit another child at the school. Then, the panel will ask you to present your reasons as to why you believe the school should admit your child.

Panels can decide to hear appeals in different ways. It can either:

1. Decide to hear both the admission authority's case for refusing admission (stage 1) and your case for appeal (stage 2) one after another and then make their decision on whether to uphold the appeal once the hearing has concluded.
2. Alternatively, the panel may choose to hear the admission authority's case first, and then break to make a decision on whether to uphold the appeal at

this stage. If the panel do not uphold the appeal at this stage the appeal will then proceed to stage 2, and the panel will hear your case for appeal. The panel will then break to make their decision on whether to uphold the appeal.

Before the actual hearing, you will receive information about what will happen on the day.

### **Standard appeal hearings**

This is an example of how an appeal hearing might be conducted where the panel hears the appeal in 2 separate stages.

If the admission authority refused your child a place under infant class size rules there is a separate procedure and decision making process for this.

#### **Stage 1: admission authority's case for refusing admission**

The presenting officer will explain why the admission authority does not believe it can admit any more children. Along with the panel, this will also be your opportunity to ask questions and challenge the presenting officer about why the school cannot admit more children.

If there are a number of appeals for places at the same school, for the same year group, then the presenting officer will usually present the admission authority's case (either in person or remotely) to all the parents together.

Once the presenting officer has presented the admission authority's case and the panel has enough information from them and where a break is being taken, you and the presenting officer will leave the hearing so that the panel can make a decision on whether to uphold your appeal at this stage or proceed to stage 2.

The panel should uphold your appeal at this stage if it finds that either:

- the school's admission arrangements were unlawful, and your child would have been offered a place if they were lawful
- the school's admission arrangements were not applied properly in your child's case and your child would have been offered a place if they were properly applied

or

- admitting another child at the school would not prejudice the provision of efficient education or the efficient use of resources.

If the panel does not uphold your appeal at this stage, it will proceed to stage 2.

### **Stage 2: parents' case for appeal**

If the appeal proceeds to stage 2, this is when you'll present your case to the panel. If there are a large number of appeals being held together you might not present on the same day as the school's presenting officer. The clerk will notify you of the exact timings of your appeal.

You'll present your case individually. Only the panel and the presenting officer will be present (either in person, or by video conference or telephone depending on the format of the appeal). You'll need to explain why you believe the school should admit your child. The panel and the presenting officer may ask you questions about your case.

The panel may not be able to consider any new information or evidence you present if you've not already submitted it in writing.

After you've presented your case and the panel believes it has enough information to make a decision, the hearing will end. The panel will then discuss and make a decision to either uphold or dismiss your appeal in private. They will weigh up your case for wanting your child to attend the school against the school's arguments for not being able to admit another child. The panel will uphold your appeal if it finds that the negative impact on your child of not attending your preferred school outweighs the case put forward by the school as to why it cannot admit any more pupils.

You'll receive notice of the outcome of your appeal in writing.

## **Infant class size appeals**

The law limits the size of an infant class (reception and years 1 and 2) to a maximum of 30 pupils per teacher (there are exceptions to this rule for certain limited categories of children). If the school refuses your child a place because admitting them would breach this limit, then your appeal will be an infant class size appeal. This is different from all other school admission appeals.

In an infant class size appeal, a panel will only uphold the appeal if it finds one of these conditions apply:

- the admission of an additional child would not breach the infant class size limit
- the admission arrangements did not comply with the mandatory requirements of the School Admissions Code
- the school's admission arrangements were not properly applied, and the child would have been offered a place at the school if the arrangements had been lawful or had been properly applied
- the decision to refuse admission was not one that a reasonable admission authority would have made in the circumstances of the case

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.

As an example, a decision that makes it impossible for you to transport all your children to school on time 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 be. The decision on whether a refusal was unreasonable will be made by the appeal panel and will depend on the facts of the particular case presented at the appeal.

The threshold for finding that an admission authority's decision to refuse admission was unreasonable is high.

As such, it's unlikely that the panel would uphold the appeal on that basis. It's important that parents recognise this before investing what can be a significant amount of time and effort in an infant class size appeal.

Before you make your decision to appeal you should think carefully about your reasons for appeal and be realistic about the likely outcome.

## **After the appeal hearing**

The clerk will normally write to you within 5 school days to notify you of the panel's decision. If the panel is hearing a large number of appeals, this may delay the notification letter. The clerk should inform you if that's the case.

The decision of the appeal panel is binding and only the courts, by way of a judicial review, can overturn a decision.

If the panel upholds your appeal the admission authority must admit your child.

If the panel does not uphold your appeal, you still have a number of options you may wish to consider.