



## School Admission Appeals

### **A Guide for Parents appealing for a place at a school or academy where the refusal to admit has been made based on your child's challenging behaviour**

#### **What are my rights?**

As a parent you have a right to say which school you would prefer your child to go to. This is not the same as having the right to choose which school your child goes to.

Children's Services, which is responsible for admissions, must offer your child a place at the school you would like them to attend UNLESS they can show that doing this will harm the quality of education they provide or make it less efficient.

The legal phrase for this is:

*"That to do so will prejudice the provision of efficient education or the efficient use of resources."*

Usually this means that Children's Services and the school have agreed that there should be a limit to the number of pupils that can be accommodated at the school or in an individual classroom. If the school has to go over that number then it will cause some difficulties. It is up to the Appeal Panel at an appeal to decide if this limit is reasonable.

However, in exceptional cases the school can refuse to admit your child into a school under paragraph 3.12 of the School Admissions Code 2014 which states:

*3.12 Where a governing body does not wish to admit a child with challenging behaviour outside the normal admissions round, even though places are available, it **must** refer the case to the local authority for action under the Fair Access Protocol. This will normally only be appropriate where a school has a particularly high proportion of children with challenging behaviour or previously excluded children*

The Department for Education advises that "challenging" is defined as a pupil who requires more than average support from the school and typically could relate to a child with behavioural difficulties.

If your application for a place has been turned down on this basis you have the right to appeal against that decision to an independent Appeal Panel.

If your child has a Statement of Special Educational Needs your appeal will need to be made to the Special Educational Needs Tribunal.

You do not have the right to appeal for a school if your child has been permanently excluded from two or more schools for a period of two years from the last exclusion.

Your right to an appeal is set out in Section 86 of the School Standards and Framework Act 1998.

## **How are independent appeal panels set up?**

Panels are set up under Schedule 24 of the School Standards and Framework Act 1998. They are usually made up of either three or five people selected as follows:

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| At least one Lay Member                                       | - Someone who is not directly connected with the Council, or with any of the Council's Schools, unless as a volunteer.   |
| At least one person with knowledge or experience of education | - Someone who has experience in education; or who is familiar with schools in Norfolk; or who is a parent of a child at a school (though they cannot be parents of a pupil at the school concerned in the appeal). |

The remaining panel member(s) will be from either of the above categories.

## **The independence of Appeal Panels**

The law says that Panels must be independent, and there are many ways that we can show this. For example: -

- They are not paid.
- They do not report to, nor are they responsible to, the County Council.
- They must work within the statutory Code of Practice on School Admission Appeals.
- Members do not sit on Panels where they have a conflict of interest.
- The work of the Panel is monitored by the Council on Tribunals.
- Parents and education representatives are not present when a Panel makes its decisions.
- The decision of the Panel is binding on both the school and the parents.

## **What powers do the Appeal Panel have?**

The appeal panel can either refuse or allow your appeal.

The appeal panel cannot: -

- attach any conditions if it allows your appeal.
- hear complaints or wider objections about local admission policies and practice.

## **The role of the clerk**

The clerk is not a member of the panel but has an important role to play in ensuring that relevant facts are established and that the appeal hearing is fair.

The clerk will be properly trained.

The clerk's key tasks are to:

- explain the basic procedures to parents/guardians and deal with any questions they may have.
- make sure that the facts are presented.
- make sure that the appeal runs smoothly.
- be an independent source of advice on the way the appeal is run.
- write notes of the meeting, decisions and reasons.
- tell all parties of the panel's decision.

### **What is the role of the Presenting Officer at the appeal hearing?**

The Presenting Officer is not involved with the decision-making process of the appeal hearing in any way.

The Presenting Officer is responsible for preparing the case stating why a place cannot be offered to your child at your preferred school. They will present the case on behalf of the school and answer any questions raised by you, other parents and the panel members.

The Presenting Officer may ask you questions about your reasons for appealing.

### **How do I prepare for the Hearing?**

Normally, at least seven days before the appeal hearing you will be sent a full set of papers which will include: -

- The case for the school stating why a place cannot be offered to your child at the preferred school.
- Your appeal form and/or letter.
- Relevant correspondence between yourself, Children's Services and the school.
- Papers you have supplied to support your appeal.

This information will be sent to the School, the Panel and the Clerk.

We would strongly recommend that you attend the hearing and, if you wish, you can bring a friend or representative.

If you wish to give any further evidence at the hearing, you should send it to the Appeals Administrator, Children's Services, Floor 8, County Hall, Norwich, NR1 2DL. Please forward any information as soon as possible. If you are not able to send your additional evidence in time then the Panel may be able to look at it if you bring it to the appeal meeting. If you can, please bring several copies. It is much better to get all the information in support of your appeal to the Panel before the meeting because if your evidence is lengthy, the Panel may have to stop the meeting to consider it.

### **Who attends the hearing?**

- The Panel (3 or 5 members)
- A clerk who takes notes of what is said and gives the Panel legal advice

- A presenting officer from the Admissions Authority
- The Headteacher or Deputy Headteacher of the school
- Sometimes an observer. This may be someone who is training to be a panel member, appeal clerk or an Admissions officer.

### **Do I have to attend the hearing?**

You do not have to go the appeal meeting as the Panel will consider your case based on what you have written in your notice of appeal. However, it is better if you do attend as the Panel may have important questions to ask which could affect the result. If you are unable to go yourself, you may wish to ask a friend or a relative to go on your behalf.

### **How is the appeal meeting run?**

The members of the Panel will be introduced and the Chair will explain what is going to happen

Firstly, the Presenting Officer will explain why the application for a place has been refused. The officer will give background information on the school and the difficulties that the school has. The officer will also outline the information that the school used to decide your child has challenging behaviour and the difficulties that the school believes that the admission of your child will cause.

You and the panel can then question the Presenting Officer and the school about what they have said.

You will then have the opportunity to tell the Panel why you believe that your child should be admitted to the school. You may not believe that your child has demonstrated challenging behaviour and want to challenge what has been said. If you accept that your child has shown some challenging behaviour in the past you may wish to explain the reasons why this happened.

If at any time during the hearing you need time to think, for example, if you are taken by surprise by any information given, or if you need to compose yourself, you can ask for a break in the meeting.

## **What happens at the meeting?**

The meeting can take up to an hour long although there is no time limit. This is what happens.

1. The Presenting Officer explain the case.
2. Parent's questions.
3. Panel's questions. (These may be asked at any time).
4. Any other points that the Presenting Officer and the parents wish to make.
5. You speak about the reasons why it is important that your child should be given a place at the school.
6. The Presenting Officer can ask questions.
7. Panel's questions. (These can be asked at any time).
8. The Presenting Officers can respond.
9. Parents' can sum up their case. This means that you have a chance to bring together the main points that you have already made.

The meeting must be fair. If you do not understand anything that is said, ask for it to be explained.

## **What happens after the appeal?**

After the meeting the Panel and clerk meet in private to make their decisions. Once the decisions have been made the clerk will let the Appeals Administrator know the results.

They will try and let you know the result of your appeal, by telephone or email, as soon as possible (this is often on the same day as the appeal hearing). You will also receive written confirmation of the decision. The decision letter from them will state the reasons the Panel gave for their decision.

## **Do I have any further right of appeal?**

The decision of the panel is binding on the admissions authority, the school and parents.

There is no appeal against the decision of the Appeal Panel. However, if there are significant and material changes in your circumstances e.g. you move into the catchment area, or a medical condition has arisen since you last applied, you have the right to re-apply for admission within the same academic year. If the school still cannot admit you, you have the right to a fresh appeal. You may re-apply in the following academic year and you have the right to a fresh appeal if it is still necessary because the year group is still full.

If you believe that the appeal meeting was not properly conducted – this is called maladministration. In this case, you can complain to the Local Government & Social Care Ombudsman. This is not a right of appeal against the decision, as the Ombudsman can only investigate written complaints about maladministration on the part of the appeal panel.

If you wish for details about complaining to the Ombudsman you can find details at [www.lgo.org.uk](http://www.lgo.org.uk) or telephone 0300 061 0614

If you consider that the decision of the appeal panel is legally in error, you could apply for a judicial review. If you wish to consider this course of action you should take independent legal advice as soon as possible as normally there is a time limit.

### **Do you have any good tips on how best to make my appeal?**

Our best advice is:

- Make sure you understand how the appeal will run.
- Make notes of any questions you may have about the appeal.
- Make sure that you have looked at all the papers before the appeal.
- Decide what you would like to say when the panel asks you to give your reasons – it might be helpful to make a note of the main points.
- Make sure that you have provided all the paperwork to support your appeal e.g. medical evidence

### **Further Information**

If you have any queries please do not hesitate to contact the Appeals Administrator on 01603 224388.

Parents can contact the Advisory Centre for Education (ACE) Ltd, which is an independent national advice centre. They provide clear advice and information particularly for parents on admission appeals through a national advice line and a wide range of publications. Especially helpful is a booklet called “Appealing for a School”.

ACE can be contacted on 0300 0115 142 Monday – Wednesday (10.00am–1.00 pm) term time only. Their website address is [www.ace-ed.org.uk](http://www.ace-ed.org.uk).

We hope that you have found this guidance note helpful.

If you would like this document in large print, audio, Braille, alternative format or in a different language please contact (01603) 224388 and we will do our best to help.