



*Please note – this guidance applies to non-infant class size appeals for foundation, voluntary aided and free schools and academies only. For information about infant class size appeals, or appealing against a decision made for a community or voluntary controlled school, please see the relevant information sheet.*

*For the purposes of this document the term parent refers to parents and carers.*

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## **Who is responsible for making decisions about admissions?**

For voluntary aided, foundation and free schools and academies, the governing body or academy trust is the admission authority and is responsible for the allocation of places. For community and voluntary controlled schools, the Local Authority (LA) is the admission authority. Admission authorities **must** allocate places on the basis of their admission arrangements, and when there are more applications than places available, these **must** be prioritised in line with the oversubscription criteria contained within the admission arrangements to decide who the places will be offered to. **The LA does not have any say as to who is offered places in foundation, voluntary aided and free schools and academies.**

## **Who has a right of appeal?**

If you are not offered a place for your child at your preferred school or schools, you have the right of appeal to an independent admission appeal panel. The panel should be completely independent of the school, who should have no say over the panel's decision.

If you are the parent of a child with a statement of Special Educational Need or an Education, Health and Care Plan, you should contact the Special Educational Needs and Disabilities Team, as appeals in these circumstances are considered by a Special Educational Needs and Disability Tribunal.

If your child has been permanently excluded twice then your right to appeal is suspended for two years.

## **Who is responsible for setting up the appeals?**

For each foundation, voluntary aided and free school and academy, the governing body or academy trust is responsible for making the arrangements for their independent appeals. **They must be arranged in line with the requirements of the School Admissions Appeals Code.**

## **Who sits on an appeals panel?**

School admission appeals panels **must** be entirely independent of the governing body or academy trust. They should be made up of 3 trained volunteers, who have not been involved in the original allocation decisions and will decide the outcome of your appeal. At least one of the panel members must have experience in education, knowledge of education in the local area or be parents of school aged children.

## **How do I appeal?**

If your child is not offered a place in your preferred school you **must** be told in writing. The letter **must** tell you why your child has been refused admission and **must** tell you that you have a right of appeal. It **must** also include details of who to contact if you want to appeal. Admission authorities **must** give appellants at least 20 school days from the date of notification that their application was unsuccessful to prepare and submit their written appeal. If you feel you have grounds for appeal you **must** set these out in writing and return to the Chair of Governors at the school you want to appeal for, not the School Admissions and Appeals Team. Your appeal should then be acknowledged, in writing, so you know that it has been received.

## **Do I need to send anything with my appeal?**

You can submit documentary evidence to support your case if you think that there is something that the panel needs to know about. For example, if you feel that there are medical factors relating to you, your child or another member of your family which you think will be affected if your child does not get a place at your preferred school, you should provide further information and medical evidence. If any part of your appeal is based on information in a document, you will need to provide a copy of this.

If possible, any additional information should be sent with your Notice of Appeal. If you are not able to do this, you should send it separately before the hearing. However, if you submit significant information at short notice before your appeal hearing, the panel may not be able to consider the information that has been supplied late, or may have to adjourn the hearing to consider it or to give the governing body or the academy trust time to respond.

## **When and where will my appeal be heard?**

For applications for the main admissions round, the law states that your appeal **must** be heard within 40 school days of the deadline for lodging appeals. You **must** be given at least 10 days' notice, unless you agree to less.

If you have said that you want to attend the appeal, the venue should be in the local area of the school you are appealing for.

## **What happens next?**

Before the hearing you should be sent a statement from the governing body or academy trust, explaining in more detail why your child was not offered a place. This should also be sent to the appeal panel and should form the basis of the governing body or academy trust's case at the hearing.

The panel should also receive your written notice of appeal and any documentation you have sent with it, together with copies of relevant previous correspondence.

## **Can parents attend the appeal hearing?**

Yes, you have the right to be at the appeal hearing and present your case to the appeals panel. The panel members should question the parents, to get as much information as they can to help them make their decision.

However, if you decide not to attend the appeal hearing, your appeal will be decided on the information available when the panel meet. Whether you attend or not, the panel should carefully consider all the written information that has been submitted.

## **Can I bring someone else with me or send someone on my behalf?**

Yes, you can bring someone with you. This may be a relative, friend, interpreter or signer who may speak on your behalf at the hearing, or just provide support. You are also able to send somebody to speak on your behalf even if you do not attend the hearing yourself.

Panels **must not** allow representatives of schools, such as Head Teachers, to support individual appeals for places at their school at the hearing itself or by providing letters of support for appellants. This is because of possible conflicts of interest and the possibility of unfairness to other appellants.

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

There are two parties in the appeal process - the governing body or academy trust (as the admission authority) and the parent. A representative of the governing body or academy trust should be at the appeal hearing to present their case. A clerk to the panel **must** also be present at the hearing to act as an independent source of advice on procedure and law, as well as to record what happens at the hearing. The process should allow each party to present its case, and for it to be challenged and questioned by the other party.

At the start of the hearing there should be an explanation as to what will happen. The representative of the governing body or academy trust should present the case for the admission authority and school; explaining how the admissions process works and why your child was not offered a place. They should also explain why to admit further children would 'prejudice the provision of efficient education or efficient use of resources'.

You should then have the opportunity to ask the representative of the governing body or academy trust questions about their case; you might want to ask more about how the admissions process works, about the school in general or the organisation classes, but at this stage you must not talk about your child or why you think they should be given a place. The panel should also question the representative of the governing body/academy trust at this stage.

The panel should then consider if the admission arrangements were legal and were properly applied, and decide if admitting additional children would lead to prejudice, or have any kind of negative effect on the school. If this is the case, the appeal should then move on to the second stage. If the panel do **not** decide that admitting additional children would lead to prejudice, then the appeal will be allowed and your child will be admitted.

This is when you should be able to give your case as to why you think your child should be given a place. The representative of the governing body or academy trust should then be able to ask you questions, as should the panel. The panel should aim to get all the information they need to make a decision as to who would suffer the greater prejudice – the school if the child were admitted, or the family if they were not. This is a balancing exercise, the panel should look at a wide range of factors when making their decision. If they find that the potential disadvantage to your child and family would be greater than that to the school, then the appeal should be successful and your child will be admitted. **The LA has no say over any independent admission appeal panel decisions.**

It is not unusual for an appeal panel to hear several appeals for the same school on the same day and therefore other parents may be at the appeal. These appeals are often referred to as multiple appeals. All of the parents enter the hearing and sit together for the first stage, but the panel should then see each parent separately to hear their case if the appeals move to the second stage - other parents should not be present when you are giving your individual case. Decisions should not be made until all of the appeals have been heard, which may take more than one day.

### **When will I know the outcome?**

You will receive written confirmation, usually within 5 school days of the decisions being made although this may take longer depending on how many appeals are being heard.

### **What if my appeal is unsuccessful?**

There is no right of appeal against the appeal panel's decision but if you feel that the appeals process has not been followed properly, you can complain to the Local Government Ombudsman if your appeal is for a foundation or voluntary aided school, or the Education Funding Agency (EFA) if your appeal is for an academy or free school. If the Ombudsman/EFA decides that this is the case, they can tell the admission authority to grant another appeal hearing, but they are not able to give your child a place.

Parents can make further applications, however you can only have one appeal per academic year, unless there is a significant change in circumstances, such as a house move into the catchment area of the school.

If you have not yet done so, you can ask the school if they have a waiting list. Schools must hold a waiting list for at least the first term in the year of entry. Any vacancies should always be allocated by applying the oversubscription criteria contained within the admission arrangements – length of time on the waiting list should not be a factor. Parents must be aware that a place may not necessarily become available and even if it did, there may be others on the list that have a higher priority.

### **Where can I find further information?**

The School Admissions and Appeals Team can provide general advice about appeals. You can contact them on 01228 221582 or by emailing [school.admissions@cumbria.gov.uk](mailto:school.admissions@cumbria.gov.uk). A copy of the School Admission Appeals Code can be accessed via the Department for Education website at [www.gov.uk](http://www.gov.uk).