

# 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 School 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 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 School 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 the School 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 School 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 School'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.

## **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 School 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 School 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 2016, out of the 41 reception appeals that were heard between 19 April and 11 July, 1 appeal was allowed. Out of the 53 secondary transfer appeals that were heard between 2 March and 2 June, 6 appeals were allowed.***

**How can you prepare for your appeal hearing?**

Appeals are usually heard during the daytime and at an independent venue in Waltham Forest. You will receive at least 10 days' notice of the date, time and place of your appeal hearing. The hearing will normally last about 30-45 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 School 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 School'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 of 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 can be made.