

SCHOOL ADMISSIONS

APPEAL PANELS

**Guidance for Parents
(not Sixth Form appeals)**

**Policy, Planning and
Corporate Services Department
February 2015**

CONTENTS

1. Introduction (*Page 3*)
2. How do I make an appeal? (*Page 3*)
3. Before the Hearing (*Page 4*)
4. What Do I Need to do? (*Page 4*)
5. The Hearing (*Page 5*)
6. Who is on the Appeals Panel? (*Page 7*)
7. What happens at the Appeal hearing? (*Page 8*)
8. How does the Panel Decide? (*Page 9*)
9. The Appeals Panel's Decision (*Page 10*)
10. How do I find out the Decision? (*Page 10*)
11. What if I have a complaint about my appeal hearing? (*Page 10*)
12. What if I feel the decision of the Appeal Panel was wrong in law? (*Page 11*)
13. Can I complain to the Secretary of State? (*Page 11*)
14. Questions often asked by Parents (*Page 11*)
15. Further Information (*Page 12*)

GUIDANCE FOR PARENTS ATTENDING SCHOOL APPEAL HEARINGS (OTHER THAN THOSE FOR INFANT SCHOOLS WHERE THERE IS CLASS SIZE PREJUDICE, OR WHO ARE APPEALING FOR A SIXTH FORM PLACE)

1. Introduction

The Education Act 1996 requires every admission authority to make arrangements for parents to express a preference for the school they want their child to attend and to give reasons for their preference.

The admission authority must comply with the parents' preference except in certain circumstances, for example, the school has reached its published admission number and no further places are available in the school in the year applied for.

A new School Admission Appeals Code came into force in December 2014. A copy of this may be seen on the Department for Education website (<https://www.gov.uk/government/publications/school-admissions-code--2>), in your local library, or obtained from The Stationery Office Ltd, PO Box 590, Norwich MLO, NR3 1QZ (www.tso.co.uk).

You have a right of appeal, when the school you prefer for your child has no places available in the relevant year group or class and therefore your application for a place has been refused by the admission authority.

The admission authority is the Children, Families and Cultural Services Department in the case of community and voluntary controlled schools and the governing body for foundation, academy and voluntary aided (mostly church) schools.

2. How Do I Make an Appeal?

You can either appeal online via an online form accessible via this webpage - <http://www.nottinghamshire.gov.uk/learning/schools/admissions/appeal-a-decision/> or you can request a printed copy of the appeal form by contacting 0300 500 80 80. The appeal form is an important part of your case to the Appeal Panel and is provided to the Panel for their consideration, so you should complete it carefully. If you appeal using a printed copy of the appeal form please return it to:-

Democratic Services
Nottinghamshire County Council
County Hall
West Bridgford
Nottingham
NG2 7QP

For appeals during the normal admissions round, you should return your completed form by 30 March 2015 for a secondary school place, or by 18 May 2015 for a primary school place. For other appeals, such as transfers or in-year admissions, please return your form within 4 weeks of the date of your

refusal letter. These appeals will be heard within 30 school days of the appeal being lodged.

Appeals Timetable – 2015/16 Admissions Round

Secondary

Offer Date: 2 March 2015

Deadline for lodging appeals: 30 March 2015 (appeals received after this deadline will be heard within 40 school days of this deadline or within 30 school days of the date of receipt)

Deadline for hearing on-time appeals: 17 June 2015

Primary

Offer Date: 16 April 2015

Deadline for lodging appeals: 18 May 2015 (appeals received after this deadline will be heard within 40 school days of this deadline or within 30 school days of the date of receipt)

Deadline for hearing on-time appeals: 20 July 2015

3. Before the Hearing

Arrangements

The arrangements for your appeal are made by the Policy, Planning and Corporate Services Department at County Hall. We must give you at least ten school days notice of the date, time and place of the Appeal Panel hearing (unless you agree to a shorter period).

We will aim to send you a copy of the admission authority's statement, and all the documents which you want the Appeal Panel to see 7 days before the date of the hearing (unless you have agreed to a shorter period than this). The statement will summarise why it has not been possible to offer a place at your preferred school.

4. What Do I Need to Do?

Your Appeal

You are responsible for presenting your case. Most parents attend the appeal hearing. We would strongly advise that you do so. If you do not wish to attend, your appeal will be decided on the information available to the Panel, including any written information you have sent.

If you wish to submit any further information other than that which you included with your appeal form we ask that this is sent to us **10 days** prior to your hearing. This is to enable this additional information to be included in the final pack of papers for your hearing, giving the Panel and the authority the opportunity to consider the information in advance of the hearing. Please note that if significant information is received after this deadline we may have to adjourn your hearing to a later date. Please contact us as soon as possible if you are unable to meet this deadline.

The school you have appealed for is not able to support you in your appeal.

Who May Attend

If you wish, you may bring a friend or supporter to help you present your case.

Special Requirements

Please let us know if you have any special requirements which we will try to meet as far as the venue is concerned.

Interpreter

You may have an interpreter at your appeal hearing. If you would like us to arrange an interpreter for you please let us know as soon as possible which language you require. Alternatively, if you would prefer, you may arrange your own.

Personal Circumstances

If your case is based on medical or social grounds, you should wherever possible, provide written evidence from a medical practitioner or other professional to support this.

5. The Hearing

How long will my appeal hearing take?

You will be allocated a specific time for your appeal hearing. These are usually scheduled at 30 or 45 minute intervals during the day.

Occasionally some appeals take longer and there might be a delay in starting your appeal.

Outline of the procedure

At every appeal there is a two-stage process. The first stage is where the Panel will decide as a matter of fact whether prejudice would arise if any child were to be admitted to the preferred school. The first stage, therefore, is not about your child's circumstances, but is about the school. The onus at this stage is for the representative of the admission authority to prove that prejudice would arise. The Panel will also look at whether the coordinated admission arrangements and oversubscription criteria have been correctly applied; and whether the mandatory provisions of the School Standards and Framework Act 1998 and School Admissions Code have been followed.

If the Appeal Panel decides that efficiency would be prejudiced by complying with the preference, that the admission arrangements have been properly implemented and that the mandatory provisions of the School Standards and Framework Act 1998 and School Admissions Code have been followed, then

the appeal moves to the second stage. This is where the Panel will exercise its discretion in deciding whether the degree of prejudice outweighs any factors you may present to the Panel to support your preference.

Further information on the appeals hearing procedure is detailed in section 7 below.

Multiple Appeals

Where there are a large number of appeals for one school, hearings are held over a number of days. Stage 1 of your appeal hearing would usually be dealt with during an evening starting at either 6.00 or 6.30 pm and all parents who are appealing are invited to attend. Depending on the number of appeals for a school, Stage 1 can also be held during the day.

If the Admission Authority proves its case at Stage 1, each parent will be invited to present their individual case to the Panel at a time allocated over the next few days. We usually allow 30 minutes for your appeal, to allow time for your case to be discussed by the Panel and properly recorded before the next appeal hearing starts. The Panel makes decisions after all of the appeals have been heard.

The appeal will be heard in private and all information provided is in confidence. Occasionally a newly appointed panel member, clerk or presenting officer may attend as an observer with everyone's agreement. However, this happens infrequently.

When you arrive at the venue for the hearing, please report to the reception desk, where you will be directed to the waiting area for the appeals. Every effort is made to ensure that the hearing is as informal as possible. Meetings of the Appeal Panel are held in different parts of the county to try and avoid parents having to travel long distances.

Adjournments

Sometimes it may be necessary for there to be an adjournment of the hearing so that further information can be obtained or so that everyone has time to read some information which has been circulated. These adjournments are usually fairly short but there may be occasions when it is necessary to adjourn the hearing to another date.

6. Who is on the Appeals Panel?

Who will consider my appeal?

The Panel, which is a completely independent body, will have either 3 or 5 members and include:-

at least one member who has experience in education, who has knowledge of education conditions in the area or who is a parent of a registered pupil at a school; and

at least one Lay Member, that is, someone without personal experience in the management of a school or the provision of education in a school (other than experience gained as a school governor or in another voluntary capacity).

Before your appeal, we will tell you who the Panel members and Clerk will be. You should tell us as soon as possible if you think you have a connection with any of them. However it may be necessary to change the Panel members or Clerk, due to unavoidable circumstances.

Who else will be present?

A Clerk to the Appeal Panel is also present to ensure the appeal is conducted fairly. The Clerk does not have any say at all in the Panel's decision but is there to:

respond to queries in advance of the hearing.

be an independent source of advice on procedures and admissions law.

record the proceedings, decision and reasons, and notify all concerned of the Panel's decision.

There may also be an Administrative Officer present at the hearing who, in addition to the Clerk, will make a detailed note of the proceedings. These are not a verbatim transcript, nor do they constitute minutes of the Appeal Hearing, but are taken solely to assist the Panel's decision making process. These notes are kept by the admissions authority and are not usually disclosed to the parties to the appeal.

An Admissions Authority representative will attend to present the case on behalf of the Admissions Authority. Sometimes someone from the school may attend, as a witness to give evidence about the school.

What powers does the Appeal Panel have?

The Appeal Panel will either accept or reject your appeal. If it accepts your appeal, your child must be offered a place at the school you want. If the Panel finds that there have been any unlawful admission arrangements, it must refer them to the local authority and the admission authority.

The decision of the Appeal Panel is final. The Appeal Panel will not comment on any allocation of a place made by the admission authority, nor can it allocate places at a school other than the one you have appealed for.

7. What Happens at the Appeal hearing?

- (a) At the start of the appeal hearing the Chair will introduce everyone present. The Clerk will then explain how the hearing will proceed and check everyone has the same paperwork before them.
- (b) The Admission Authority's representative will put their case explaining why your request was refused and why the appeal should not be granted.
- (c) You can then ask questions of the Admission Authority's representative.
- (d) The Members of the Appeal Panel can ask questions of the Admission Authority's representative.

You and the Admission Authority's representative will be asked to leave while the Appeal Panel consider whether the admission arrangements have been properly administered, whether the mandatory provisions of the School Standards and Framework Act 1998 and School Admissions Code have been followed and whether the Authority has proved that to allow the appeal would prejudice either the provision of efficient education or the efficient use of resources, or both.

If the Panel decides that the Admission Authority's representative has failed to prove their case, the appeal will be allowed, and your child will be admitted to the preferred school. The appeal hearing will therefore end at this point.

If the Panel is satisfied, on the evidence presented, that the admission arrangements have been properly followed, that the mandatory provisions of the School Standards and Framework Act 1998 and School Admissions Code have been followed and that to admit further pupils to the school would prejudice the provision of efficient education or use of resources, the appeal hearing will proceed to the second stage.

Your Case

- (e) It is at this stage that you and a friend or supporter (if you wish) can put your reasons to the Panel, stating as fully as you wish why you want your child to attend your preferred school
- (f) The Admission Authority's representative can ask you questions.
- (g) The members of the Panel can then ask you questions.

Summing Up

- (h) The Admission Authority's representative will sum up their case.

- (i) You can sum up your case.
- (j) You and the Admission Authority's representative will be asked to leave while the Panel reaches its decision.

The Clerk to the Panel will remain to advise solely on any points of law and procedure which may arise whilst the Panel members are considering their decision. The Clerk will not take any part in the making of the decision.

NOTE:- Occasionally some variations of the above procedure may be desirable.

8. How Does The Panel Decide Whether to Uphold or Reject the Appeal?

The result of your appeal will depend on the strength of your case. In most admission appeals the Panel goes through two stages.

In the first stage, the Panel hears the case put by the Admission Authority, explaining why it did not offer you a place at your preferred school. The Panel decides whether there was a good reason for turning down the application (the phrase used is "whether the admission would be prejudicial to the efficient education or efficient use of resources"). An example might be where a school has very small classrooms and could not fit your child in without making the space too cramped for good teaching and learning. The Panel is also looking at whether the admission arrangements have been properly implemented and whether the mandatory provisions of the School Standards and Framework Act 1998 and School Admissions Code have been followed.

If the Panel does decide that there would be prejudice, that the admission arrangements have been correctly implemented, and that the mandatory provisions of the School Standards and Framework Act 1998 and School Admissions Code have been followed, it will begin the second stage of the appeal, where the Panel hears your case, and your reasons for appealing against the decision. You can mention all of the reasons why that school would be the best for your child, and what special factors justify your child getting in, in spite of the reason for turning you down. The Panel then make a "balancing judgement", and decides whether the benefits to your child of going to the school you are appealing for outweigh the prejudice for the school and the other children of having one more pupil in the class. If the Appeal Panel decides that your case is stronger, it will uphold your appeal and the admission authority is then under a duty to admit your child to the school.

9. The Appeal Panel's Decision

Decisions are taken by a simple majority, with the Chair having a second or casting vote if necessary. The decision of the Appeal Panel is binding upon the County Council or Governing Body if your appeal is upheld. There is no further right of appeal to the County Council or Governing Body against the rejection of your appeal if your appeal is dismissed.

10. How do I find out the decision of the Panel?

A letter setting out the decision and the reasons for it will be sent to you within five days of the hearing wherever possible.

11. What if I have a complaint about my appeal hearing?

If you feel that your appeal hearing was not properly conducted you can complain to the Local Government Ombudsman (except for Academies). The Ombudsman has jurisdiction over the proceedings of the Appeal Panel, and may investigate allegations of maladministration leading to injustice. The Ombudsman has no statutory power to overturn the decision of an Appeal Panel, but can only draw the County Council's attention to a finding of maladministration. One of the remedies the Ombudsman sometimes suggests is that there should be a fresh appeal with different Appeal Panel members. Although the decision of the original Panel is final, admission authorities do have the discretion to arrange a new Panel following an Ombudsman's recommendation and can undertake to accept the decision of the Panel should it uphold your appeal.

You can contact the Ombudsman's Advice Team on 0300 061 0614 or 0845 602 1983 (8.30am-5.00pm, Monday to Friday). Website: www.lgo.org.uk

The Local Government Ombudsman has the following fact sheets that provide some general information about the most common type of complaints which you may find useful:-

<http://www.lgo.org.uk/publications/fact-sheets/complaints-about-school-admissions/>

<http://www.lgo.org.uk/publications/fact-sheets/complaints-about-infant-class-sizes/>

Complaints of maladministration against appeals arranged by an **Academy** should be made to the **Education Funding Agency** (EFA).

A complaint to the Education Funding Agency can be made using the online school complaints form or by writing to:

The Department for Education
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

When making a complaint of maladministration you should explain why you believe the review process was unfair and include relevant supporting information, such as the review panel's letter notifying you of the reasons for their decision.

12. **What if I feel the decision of the Appeal Panel was wrong in law?**

If anyone concerned with the appeal - you as the parent, or the Department - considered that the decision of the Appeal Panel was legally in error, either of them could seek to challenge the decision of the Appeal Panel by means of what is known as judicial review. This is legally very complex and, unless legally aided, can be costly. In essence such an application to the Court would only succeed if it can be shown that the Appeal Panel has mis-directed itself in law, or had on the evidence made such an unreasonable decision that in the view of the Court no reasonable Appeal Panel, taking into account all the relevant factors and disregarding irrelevancies could have taken such a decision. If you wish to consider this course of action you should take independent legal advice.

13. **Can I complain to the Secretary of State?**

The Secretary of State for Education and Employment cannot review decisions of individual Appeal Panels but can consider:

- Whether the admission authority correctly constituted the Appeal Panel.
- Whether the admission authority has acted reasonably in exercising its functions in respect of the appeal process or has failed to discharge any legal duty in relation to that process, eg in constituting the Panel or by acting in breach of the mandatory provisions of the Appeals Code.

The address for the Secretary of State is:-

Secretary of State
Department for Education
Sanctuary Buildings
Great Smith Street
LONDON
SW1P 3BT

Telephone: 0870 000 2288

Website: www.education.gov.uk

14. **Questions Often Asked by Parents**

(a) **Why do I have to appeal? - I thought parents could choose a school**

As indicated in paragraph 1, the law enables parents to "express a preference". This is not the same as having a choice. If your preference is for a school which is full, then your application may be refused.

(b) **Should I attend the Appeal Hearing?**

Yes, if at all possible, you or someone who can put your case should attend. You know your situation best and will be able to provide information to help the Appeal Panel reach a decision.

(c) What are my chances of succeeding with this appeal?

This will depend on a number of factors such as the situation at preferred school, the strength of your own case and the strength of the cases of other appellants for a place at this school.

(d) Can I appeal again if my appeal is rejected?

It is not normally possible to appeal again for the same school year. This is because the Admission Authority will not consider repeat applications for the same school unless you or the school have a significant and material change in circumstances relevant to your application. If you feel there has been such a change in circumstances you should contact the Admission Authority for advice on whether your child may be admitted to the school. If they decide again not to admit the child, you may be able to make a fresh appeal. This will be heard by a fresh Panel consisting of different members and if possible with a different Clerk.

(e) What if places become available at the school later in the year?

You should contact the Admission Authority for the school to let the school know of your continuing interest. Occasionally places do become available, and subject to the published admission criteria, might be allocated later in the year.

15. Further Information

(a) Policy, Performance and Corporate Services Department

If you would like any further information about the process please ring Nottingham (0115) 977 3887.

The address is: Democratic Services
Nottinghamshire County Council
County Hall, West Bridgford
Nottingham
NG2 7QP

E-mail: education.appeals@nottscc.gov.uk

(b) Advisory Centre for Education (ACE)

The Advisory Centre for Education (ACE) is an independent national education advice centre which provides information on the education system.

ACE operates a national advice line and produces a wide range of publications. They publish a booklet entitled "Appealing for a school" which provides advice on the appeals system. Guidance is given on how to appeal, how to present your case to the Appeal Panel, what happens at the Panel

meeting, how the decision is made and further courses of action. The Booklet also gives advice on what to do if your appeal is unsuccessful.

If you are the parent or carer of a child at school and you would like to talk to an adviser you can call their confidential telephone advice line on 0300 0115 142.

Normal opening hours: **Monday to Wednesday from 10am to 1pm. Term time only.**

Website: <http://www.ace-ed.org.uk/advice-about-education-for-parents>

(c) Department for Education (DfE)

The DfE website is www.education.gov.uk

(d) County Council Admissions Team

If you want to find out about where places are available at alternative schools you need to speak the Admission Team on 01623 433 499.