

# **SCHOOL ADMISSIONS**

## **APPEAL PANELS**

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

**Chief Executive's Department  
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**Nottinghamshire  
County Council**

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# **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 unless any of the following would arise:-

Prejudice to the provision of efficient education or the efficient use of resources; (This is explained in more detail in paragraph 8)

Where the preferred school is a voluntary aided or foundation school and admission would be incompatible with any special arrangements for preserving its religious character;

Where the school is wholly selective by high ability or by aptitude, and the admission of the pupil would not be compatible with such selection under the admission arrangements;

Where the child has been permanently excluded from two or more schools and at least one exclusion took place after 1 September 1997;

Where admission would be incompatible with co-ordinated admission arrangements covering two or more maintained schools;

A new School Admission Appeals Code came into force on 10 February 2009. A copy of this may be seen on the Department for Children, Schools and Families website ([www.dcsf.gov.uk/sacode/](http://www.dcsf.gov.uk/sacode/)), in your local library, or obtained from The Stationery Office Ltd, PO Box 590, Norwich MLO, NR3 1QZ ([www.tso.co.uk](http://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 and Young People Department in the case of community and voluntary controlled schools and the governing body for foundation and voluntary aided (mostly church) schools.

## **2. How Do I Make an Appeal?**

You will have been sent an appeal form with this booklet. The appeal form is an important part of your case to the Appeal Panel. You should complete it carefully and return the form to:-

Chief Executive's Department (ref KF)  
Nottinghamshire County Council  
County Hall  
West Bridgford  
Nottingham NG2 7QP

For appeals during the normal admissions round, you should return your completed form by 26 March 2010 for a secondary school place, or by 26 April 2010 for a primary school place. For other appeals, please return your form within 28 days of the date of your refusal letter.

## **3. Before the Hearing**

### **Arrangements**

The arrangements for your appeal are made by the Chief Executive's 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).

At least 7 working days before the date of the hearing (unless you have agreed to a shorter period than this) we will send you a copy of the admission authority's statement, and all the documents which you want the Appeal Panel to see. 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, we recommend that this is sent to us as soon as possible before the Appeal Panel hearing. This will give the Panel and the authority the opportunity to consider the information. 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.

If your case is based on a house move, you should provide written evidence such as a letter from a solicitor or conveyancer, or from a landlord/local authority/housing association who you are renting the property from, to confirm your residency.

## **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.

### **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 Department 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, except that a member of the Administrative Justice and Tribunals Council may attend as an observer at any meeting of an Appeal Panel. 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 maybe 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 in a voluntary capacity or as a school governor).

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:

- explain the basic procedure and deal with any questions you may have.

- ensure the relevant facts are presented.

- make sure each party is heard in turn.

- be an independent source of advice on procedures.

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

Also present at the hearing there may be an Administrative Officer 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. The Admission Appeals Code states that these notes remain the property of the Appeal Panel and are not normally available to any of the parties to the appeal.

Normally a Local Education Officer will present the case for the admission authority.

## **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 Schools Adjudicator.

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 Department'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 they 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?**

You will usually be telephoned after the hearing to inform you of the decision. As soon as possible after the hearing a letter will be sent to you setting out the decision and the reasons for it.

**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. 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.

The address for the Ombudsman is:-

Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH

Telephone: 0845 602 1983 or 024 7682 1960

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

**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 Children, Schools and Families  
Sanctuary Buildings  
Great Smith Street  
LONDON  
SW1P 3BT

Telephone: 0870 000 2288

Website: [www.dcsf.gov.uk](http://www.dcsf.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". The Parents' Charter explains that you have "the right to say which school you prefer" and "a right to a place in the school you want unless it is full to capacity with pupils who have a stronger claim". It is for this reason that your application for a place at the school of your choice has been 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) Is there another appeal?**

There is no further formal appeal against the decision of the Appeal Panel.

**(e) 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.

**(f) 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) Chief Executive's Department**

If you would like any further information about the process please ring Ruth Rimmington on Nottingham (0115) 977 3825 or Barbara Cooper on 977 3066.

The address is: Chief Executive's Department  
Nottinghamshire County Council  
County Hall, West Bridgford  
Nottingham NG2 7QP

E-mail: [education.appeals@nottsc.gov.uk](mailto:education.appeals@nottsc.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. ACE is based at:-

Advisory Centre for Education (ACE)  
1C Aberdeen Studios  
22 Highbury Grove  
LONDON N5 2DQ

General Advice Line: Freephone 0808 800 5793  
(Mon-Tues 9.00 am-5.00 pm, Weds-Fri 10.00 am-5.00 pm)

Web-site [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

**(c) Department for Children, Schools and Families (DCSF)**

The Department's website is [www.dcsf.gov.uk](http://www.dcsf.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 to:-

North Base Admission Team 01623 433 433  
(for schools in Ashfield, Bassetlaw, Mansfield and Newark)

South Base Admission Team 0115 854 6161  
(for schools in Broxtowe, Gedling and Rushcliffe)