

SCHOOL ADMISSION APPEALS PANEL

A Guide for Parents for Primary and Secondary School Individual Appeals

If your child is not offered a place at your preferred school you have the right of appeal to a Panel set up under the School Standards and Framework Act 1998. The School Admission Appeals Code which sets out the requirements for dealing with Appeals together with associated guidance can be accessed at the website of Department for Children Schools and Families www.dcsf.gov.uk/sacode.

This Panel is independent of the School as the Admissions Authority and the school and is not answerable to it. Its decision is final.

This guidance is intended to help you understand the appeal process. It explains what happens next and how the School Admission Appeals Panel works.

WHY WILL MY CHILD HAVE BEEN REFUSED A PLACE AT MY PREFERRED SCHOOL?

This could be for one of the following reasons:

- The school is full and it would be difficult to admit another child without impacting on other pupils in the school;

OR

- Your child has not been assessed as suitable for a grammar school education;

WHAT HAPPENS AFTER THE A SCHOOL HAS RECEIVED MY APPEAL?

The School will notify the clerk to the Appeal Panel that you are appealing and will prepare and collate the papers for consideration by the Appeals Panel.

The clerk to the Appeals Panel is responsible for the administration of your appeal and for giving legal and procedural advice to the members of the Panel. Although the clerk is employed by the school he/she acts in an impartial way and is not connected to the School or. The clerk is happy to answer questions about appeal arrangements but cannot advise on the details of your case.

MULTIPLE APPEALS

Where there are a number of appeals to be heard for the same school they will be considered by the same Appeal Panel and may be heard over a few days. No decision on individual appeals will be made until all appeals for that particular school have been heard. You will be advised of the decision within a few working days of the appeals finishing.

WHEN WILL MY APPEAL BE HEARD?

You can expect to have at least 10 school days notice of the date of your appeal and you should receive the appeal papers no later than seven days before the hearing.

HOW LONG WILL MY INDIVIDUAL APPEAL HEARING TAKE?

Appeal hearings normally take an average of 30 minutes. Every effort is made to keep to your appointment time. However, occasionally there may be some delay if previous appeals take longer than expected.

INFORMATION FOR YOUR APPEAL HEARING

You will be sent a copy of the appeal papers at the same time as members of the Appeal Panel. The papers will include evidence provided by the School in support

of their decision and a copy of your appeal with any supporting information you have submitted for consideration by the Panel.

When receiving the case papers, if you feel there is additional information you wish the Appeal Panel to consider, please arrange for such information to be supplied to the clerk as soon as possible. Whilst you may provide additional papers any time up to the appeal, if you do this on the day of the hearing it might result in a delay in the start of your appeal while sufficient copies are made and in some cases could result in your hearing being deferred.

If, as part of your appeal you intend to refer to your child's health as a reason for wishing your child to attend a particular school, you should ensure that documentary evidence is supplied supporting your arguments, for example, a doctor's letter or relevant papers from a hospital consultant.

If your appeal relates to refusal of a place for your child at a grammar school please refer to attachments 1 and 2 to this guidance.

Please note that employees of the school being appealed for, or a member of the Admissions Authority for the school, must not support individual appeals at the hearing or by providing letters of support for appellants. This is because of possible conflicts of interest and the possibility of unfairness to other appellants.

APPEAL PANEL MEMBERS

An Appeal Panel is made up of three people who will consider your appeal, all of whom are independent of the Admissions Authority. The Panel will comprise at least one lay member and at least one member who has experience in education who is acquainted with educational conditions in Medway or who is a parent of a registered pupil at a school. None of the Panel members will have had any previous involvement in your case.

WHO ATTENDS THE APPEAL HEARING?

You will be invited to attend and put your case in person. An officer from the Admissions Authority is invited to explain why your child has been refused a place at your preferred school and to answer any questions you and the Panel may have. You are free to have legal representation although this should not be necessary. You may be accompanied by a friend, adviser, interpreter or signer who may speak on your behalf at the appeal hearing. The friend or adviser can be a Choice Adviser or an employee of Medway Council, such as an educational social worker, SEN adviser or learning mentor provided this will not lead to a conflict of interest. You may also be represented by a locally elected politician such as an MP or a

Councillor. However employees of the school in question are not allowed to represent or accompany you and there are certain circumstances in which Medway Councillors cannot attend in this capacity. For example in relation to schools where Medway is the Admissions Authority and the Councillor has a direct role in relation to school admissions in Medway. If you need further advice on this please contact me for help.

When you are advised of the date and time for your hearing you will be asked to complete a form confirming your attendance and asking whether you will be bringing anyone with you.

You are encouraged to attend the hearing but if there are special reasons why you cannot attend in person, you may ask the Panel to consider your appeal in your absence. Unless there are exceptional reasons why you cannot attend at the time that is offered, it will not be possible to offer an alternative date.

It is a matter for you to decide whether your child should attend the appeal hearing.

APPEAL PANEL HEARING

All individual appeals have a two-stage approach, which is explained in more detail below:-

- First Stage The Panel will consider the legality of the school's published admission arrangements and whether they were correctly applied in your child's case. The Panel will also consider whether the school is full;

- Second Stage If the Panel decides the school is full the Panel will consider whether your case for admission of your child outweighs any prejudice to the efficient provision of education or efficient use of resources at the school that would be caused by upholding your appeal.

The appeal hearing is your opportunity to present your individual case to the Panel in private. Before your appeal begins, the clerk will meet you and introduce you to the Presenting Officer from the School.

At the hearing the procedure is likely to be as follows:

- ◆ The clerk will introduce you and the Presenting Officer from the School

- ◆ The chair will welcome you to the meeting and introduce you to the Panel members

- ◆ The school representative will explain why your child has been refused a place at your preferred school. If you wish to ask the school representative any questions you may do so. The Panel will also ask questions.
- ◆ The chair will invite you to say anything in support of your case. You will have as much time as you need, but please remember that the Panel will have read the case papers in advance so there is no need to go over everything in detail. The Panel and the Presenting Officer may ask you questions if they need more information.
- ◆ The hearing finishes with a summing up from the Presenting Officer, and then you, having a chance to sum up. No new evidence should be given at this point.
- ◆ During the hearing the clerk will take brief notes of what is said. These are not published and will not be available to parents.
- ◆ At the end of the hearing you and the Presenting Officer will be asked to leave the room. The clerk will remain to record the Panel's decision, which is considered in private. You will be notified of the Panel's decision, in writing, normally within a few working days after the appeal hearing. The Panel's decision is final and is binding on the School.

THE DECISION-MAKING PROCESS

The decision-making process will be undertaken in private. At stage 1 the Panel will decide whether the admission arrangements were lawful and correctly applied in your child's case and whether admitting your child to the school would cause prejudice to the efficient provision of education or efficient use of resources at the school. The School must demonstrate prejudice will be caused by the admission of an additional child or children over and above the fact that the published admission number (PAN) for the school has already been reached. The Panel is required to consider a number of factors in reaching a decision as to whether or not there would be prejudice including the organisation and size of classes, the availability of teaching staff and the effect on children already at the school. This may also include considering, in light of current school organisation and structure, what effect an additional admission would have on later year groups (ie "future prejudice").

If the Panel decides the over subscription criteria for the school and the admission arrangements are not lawful or have not been correctly and impartially applied in your child's case it must uphold your appeal at this stage except where a significant number of children are affected and the admission of all of them would cause serious prejudice.

If the Panel decides that additional children could be admitted without any prejudice to the school it must uphold the appeals.

Alternatively, if the School satisfies the Panel that there would be prejudice the Panel must move to the second stage of the decision-making process to decide whether the individual parental case outweighs prejudice.

This is when the Panel will consider your individual case, whether your grounds for your child to be admitted to the school outweigh the prejudice that would be caused. This involves no comparison between individual cases.

However, if there are several cases which outweigh the prejudice to the school and merit admission, but the Panel determines that the school could not cope with that number of successful appeals, the Panel must then compare all cases and decide which of them to uphold.

(NOTE: Grammar appeals: If you are appealing because your child has been refused admission to a grammar school please read the notes at Attachment 1)

The information in this leaflet is for guidance only and is based on the School Admission Appeals Code which can be accessed at www.dcsf.gov.uk/sacode.

The legal basis for Independent School Admission Appeals Panels is contained in the School Standards and Framework Act 1998.

Complaints to the Education Funding Agency (EFA)

The Education Funding Agency can investigate complaints about the arrangements for and conduct of your appeal hearing if it was for an academy. This is not a further right of appeal. The EFA will only consider complaints about maladministration which covers issues such as a failure to follow correct procedures or a failure to act independently and fairly, rather than complaints where you simply feel that the decision taken is wrong. The EFA is not able to overturn an Appeal Panel's decision but he may make recommendations for a suitable remedy, such as a rehearing of the appeal.

Complaints about Academies should be sent:
By email to academyquestions@efa.education.gov.uk

By post to Academies Central Unit (Academy Complaints), Education Funding Agency, Earlsdon Park, 53-55 Butts Road, Coventry, CV1 3BH

APPEALS FOR PLACES AT GRAMMAR SCHOOLS

For grammar school appeals:

- If you requested a local review of your child's performance following the selective ability testing the Appeals Panel is not allowed to make its own assessment of your child's ability. It can only consider whether your child's review was carried out in a fair, consistent and objective way.

The Panel is only allowed to consider factors which you contend may have affected your child's performance on the test day (eg illness, bereavement) and any evidence you provide to support your claim that your child is of grammar school ability if it is not satisfied the review process was carried out properly or where you did not ask for a review. In these circumstances you will need to provide clear evidence to support your claim that your child is of the required academic standard, eg school reports giving year 5/year 6 SAT results or a letter of support from your child's current or previous school clearly indicating why your child is considered to be of grammar school ability. Please note that representatives of the school being appealed for must not support your appeal at the hearing or provide any letters of support for your child. This is because of possible conflicts of interest and the possibility of unfairness to other appellants.

- Where the Panel has decided the school is full it will also have to be satisfied that your arguments for admitting your child outweigh the prejudice that would be caused by the admission of additional children to the school.

INFANT CLASS SIZE PREJUDICE

If your appeal is against refusal of admission of your child to a primary school on "infant class size prejudice" grounds there are only limited grounds on which the Appeals Panel can offer a place to your child.

Infant classes, where the majority of children will reach the age of 5, 6 or 7 by the end of the academic year, must not contain more than 30 pupils with a single schoolteacher.

Refusal of a place on "infant class prejudice" grounds will be because admission of your child would have the effect of increasing the size of the infant class at the school to 31 children which could involve employing another teacher or moving to mixed-age teaching with detrimental consequences to the efficient provision of education or efficient use of resources at the school.

Only in limited circumstances, prescribed by law, may children be admitted as exceptions to infant class size limit.

In order to uphold your appeal the Panel must be satisfied that **either**

- (a) your child would have been offered a place if the admission arrangements had been properly implemented;
- (b) your child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admissions Code and the School Standards and Framework Act 1998 and/or
- (c) the decision to refuse admission was not one which a reasonable Admissions Authority would have made in the circumstances of the case

In considering whether the admission arrangements were properly implemented in your case the Panel should take account of the material available to the Admissions Authority **at the time of the decision**, or material which would have been available to the Admissions Authority if it had acted reasonably. The Panel should accept fresh material you wish to submit in order to establish the factual basis if you are claiming that the admission arrangements have not been properly implemented.

If the Panel moves on to consider whether the decision to refuse admission was "unreasonable" again it can only review the Admissions Authority's decision in the light of the material that was available at the time when it made its decision. In exceptional circumstances the Panel may also consider material which would have been available to the Admission Authority if it had acted reasonably. The Panel should also consider evidence you wish to submit showing what your circumstances were at the time the decision was made in order to support your claim that no reasonable Admission Authority would have made that decision.