



A GUIDE TO ADMISSION APPEALS

The School Standards and Framework Act (SSFA) 1998, as amended by section 40 of the Education and Inspections Act 2006, and the School Admissions Code and School Admission Appeals Code produced by the Department for Education (DfE), as defined by case law, govern all school admission appeals. The SSFA 1998 requires all Local Authorities (LAs) to make arrangements for enabling appeals to be made against decisions made by the LA as to the school at which a child is to be educated.

This guidance explains how the appeals process works and will help you to appeal against the LA's decision regarding a child's school allocation. It will help you to:

- understand the process;
- know what will happen at an appeal hearing;
- understand how Appeal Panels make their decisions.

This guidance refers to appeals by parents against a decision as to the school at which education is to be provided.

It does not cover the duty on Local Authorities to make arrangements for children to express a preference as to the school at which they wish to receive sixth-form education or education other than school sixth-form education for children above the compulsory school age by the time they start to receive education at a school. For more information on this right of appeal, please contact the clerk to the appeal panel on 01628 796345/796319.

These new children's rights are in addition to the rights of the children's parents to express a preference as to the school at which they wish them to receive education.

PLEASE NOTE THAT THIS GUIDANCE IS A SUMMARY DOCUMENT AND PARENTS SHOULD REFER TO THE SCHOOL ADMISSION APPEALS CODE ON THE DEPARTMENT FOR EDUCATION WEBSITE www.gov.uk/government/publications/school-admissions-appeals-code FOR FURTHER INFORMATION.

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1. I thought I could choose and get the school I wanted my child to attend?

The School Standards and Framework Act 1998 (SSFA) allows you to express a preference regarding the school you would like your child to attend. However, you do not have an absolute right to choose a school because the law states that the Local Authority (LA) need not meet your preference if the Year Group has reached its Admission Number and, as a result, compliance with your preference would “prejudice the provision of efficient education or the efficient use of resources” at the school (see section 36B for more information).

2. Why is there an Appeal Panel hearing?

If your child has not been offered a place at the school of your preference you have the right to appeal against the LA’s decision. Appeals can be made in relation to any school year group up to and including the age of 18. The law gives you the opportunity to put your case to an Appeal Panel, whose decision is made independently of the LA. The appeal hearing is your chance to put your side of the argument – to have your say.

3. Are there circumstances where I do not have a right to appeal?

If your child has been permanently excluded from two or more schools, you do not have the right to appeal for a school for two years after the second or any subsequent exclusion.

4. What if my child has a Statement of Special Educational Needs?

If your child has a Statement of Special Educational Needs you cannot go through this appeals process. Please contact the Special Educational Needs Service (01628 796779) as your appeal must be heard by a Special Educational Needs & Disability Tribunal.

5. How will I know when my appeal will be heard?

You will usually be sent written notice of the date of your appeal at least 10 school days in advance of the hearing.

6. Who will be at the Appeal Hearing?

- You if you choose to attend and/or your partner, friend, supporter, witnesses, representative or legal adviser. If you intend to be accompanied or represented at the hearing you **must** notify the clerk in advance
- An interpreter or signer if you have notified us in advance that you require one
- The Appeal Panel (at least 3 members)
- The Clerk to the Appeal Panel
- An Admissions Officer from the LA and possibly a representative of the school such as the Head teacher, Deputy Head teacher, or a Governor of the school
- Sometimes there is also an observer. This could be someone who is training to be an Appeal Panel member, appeal Clerk, or LA presenting or administrative officer.

7. Who are the Appeal Panel members?

The Appeal Panel will have a minimum of three members, split between lay and education members:

- Education Members – People who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.

- Lay members – People without personal experience in the management of any school or provision of education in any school except as a school governor or in any other voluntary capacity.

No member of the Panel will have any connection with either your preferred school or the school you have been allocated. The decision of the Appeal Panel is made **independently** of the LA.

8. What powers does the Appeal Panel have?

The Appeal Panel can either refuse or allow your appeal. It has no other power. The Appeal Panel cannot:

- attach any conditions if it allows your appeal
- order the LA to change your position on the waiting list for the school

An Appeal Panel can however consider if the LA's admission arrangements are lawful and have been properly implemented. Therefore, if an Appeal Panel found that your child would have been offered a place if the admission arrangements had been properly implemented or the arrangements had not contravened mandatory provisions in the School Admissions Code, the Panel may allow your appeal.

9. What is the role of the Clerk to the Appeal Panel?

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

- deal with any questions you may have
- ensure the relevant facts are established
- make sure each party is heard in turn
- be an independent source of advice on the law and procedures
- record the proceedings, decisions and reasons
- after the appeal, notify all concerned of the Appeal Panel's decision in writing

10. What is the role of the LA officer at the appeal hearing?

The LA officer is not involved with the decision making process of the appeal hearing in any way.

The LA officer is responsible for producing the case stating why a place cannot be offered to your child at your preferred school. S/he will present the case on behalf of the LA at the appeal hearing about the school and answer any questions raised by you and the Appeal Panel members. Also, in the same way you can ask the officer questions about the LA's case, to ensure a fair hearing, the officer may ask you questions about your reasons for appealing.

11. Should I attend the appeal hearing?

Yes, if at all possible! You are the best person to tell the Appeal Panel why you want your child to go to the school as you know your situation and will be able to provide information to help the Panel make an informed decision.

12. What happens if I need an interpreter/signer or other help?

You may have an interpreter or signer at your appeal hearing. If you would like the Clerk to arrange this for you, free of charge, please put details on the appeal form or ask the Clerk **well in advance** of

the appeal hearing. Alternatively, if you prefer, you may arrange for your own interpreter/signer to come with you. Please notify the Clerk if you intend to do this.

13. Can I bring someone with me to help me present my case?

You may bring a member of your family, a friend, or other representative along with you, either to help you say what you want or to speak for you or to simply give you support.

You may bring a legal representative. However it should not normally be necessary for you to bring a solicitor or lawyer as this is not a court of law and we aim to keep the appeal hearing as informal as possible. Any legal costs incurred by you are not recoverable from the LA. .

Your representative at the hearing cannot be an employee of the school.

If you intend to be represented or accompanied at the hearing you **must** notify the clerk as early as possible in advance of the hearing.

The School Admission Appeal Code states that you are entitled to decide how to organise your presentation to the Appeal Panel but it is unlikely to be necessary for witnesses to attend. The Panel may consider it appropriate to allow witnesses who do attend to give evidence, provided that it is relevant and not repetitive eg to verify matters such as medical conditions or the home address.

14. Can I bring my child to the appeal hearing?

The appeal is about refusal of a parents' right to express a preference for a particular school and attendance can be distressing for some children. It is however for parents to decide whether their child should attend the hearing as a witness. Please be aware that if a child does attend the appeal hearing both the Appeal Panel and the LA may wish to ask him/her questions.

If you intend bringing your child to the appeal hearing please notify the clerk as early as possible in advance of the hearing.

15. What happens if I do not attend the hearing?

If at all possible, you should attend but if you cannot do so for a genuine reason, we will try to arrange another date wherever possible. However, it is important that you **contact the Clerk to the Appeal Panel as soon as possible** to let the Clerk know if you cannot attend on the date or time fixed for your appeal.

If you, or someone who can put your case, cannot attend and another date cannot be arranged, your case will be heard in your absence and your appeal will be decided on the information that is available at the hearing.

Please note: if you are not at the appeal hearing and the Clerk has not been notified whether or not you will be attending, your case will be decided on the information that is available at the hearing.

16. Can I withdraw my appeal?

Yes. You can withdraw your appeal at any time prior to the appeal hearing by confirming it by email or in writing to the Clerk to the Appeal Panel. However, if you wish your appeal to be reinstated you will normally be expected to show good reason why it should be, such as there has been a significant change in your circumstances. So please **give the matter careful consideration** before you withdraw your appeal.

17. Will I have any information about the LA's case before the appeal hearing?

Normally, at least 7 working days before the appeal you will be sent papers which will include:

- The case for the LA summarising how places at the school were allocated and how the admission arrangements for the school apply to your child's application
- A statement summarising the reasons for the decision explaining how admission of an additional child would cause prejudice to the provision of efficient education or use of resources, making it clear whether or not the admission authority is defending its decision on the basis of infant class size legislation
- A summary of the school's net capacity
- The relevant extract of the area's coordinated admissions scheme where this is relevant to the appeal
- Details of how the locally agreed In-Year Fair Access Protocol operates, where relevant.
- Relevant correspondence between yourself and the LA
- Your appeal form and/or letter
- Papers you have submitted to support your grounds for appeal

These documents will also be sent to the Appeal Panel, its Clerk and the LA officer at the same time.

18. How can I prepare for the appeal hearing?

You are responsible for presenting your case, for deciding what you would like to say at the appeal hearing and what written information you want the Appeal Panel to have.

So before the appeal hearing you are advised to:

- Familiarise yourself with the procedures (see Question 24)
- Make a note of any questions you may have about your appeal
- Make sure you have looked at the LA's case.
- Make a note of any questions you would like to ask the LA officer about the LA's case
- Spend some time deciding what you would like to say when the Panel invites you to explain your reasons for wanting your child to attend your preferred school – it might be helpful to make a note of the main points
- Make sure you have all the paperwork to support your appeal such as a doctor's letter, confirmation of completion of your house purchase, or a rental agreement, or any other documentation. Please make sure the Clerk has received copies of these at least 3 school days prior to the hearing. Any material not submitted by this deadline may not be considered by the Appeal Panel.
- On the day of the appeal hearing, bring with you to the appeal: the LA's case and papers which were sent to you at least 7 working days before the appeal; your supporting letters and documents; proof of your address(es) if relevant; notes of questions you may have; and this guidance.

19. Is there anyone who can help me with preparing for my appeal?

In the first instance, please contact the Clerk to the Appeal Panel who can help you with any queries or concerns you may have. S/he may be contacted on **01628 796319/796345**.

If you would like further advice or information, ACE Education Advice is an independent national education advice centre, which provides information on the education system.

ACE may be contacted by e-mail: enquiries@ace-ed.org.uk or via the website: www.ace-ed.org.uk/advice.html

20. What can I say at the appeal hearing?

It is very important that you tell the Appeal Panel everything that is relevant to your case. The appeal is confidential so please feel free to say whatever you need to. The members of the Appeal Panel have to make their decision on what information they have been given; so make sure you tell them what is relevant and important about your case.

Do not think “Oh, that’s not really important” – make the most of your opportunity to talk to the Panel. The Clerk and members of the Appeal Panel want to be certain that you do not leave your appeal thinking that things have been left unsaid.

21. Does the Appeal Panel need any supporting evidence about my reasons for appealing?

Yes:

- If your case is based on medical or social grounds of either your child or anyone else, you should, wherever possible, provide written evidence from a professional involved in the case e.g. a doctor or social worker, to support this.
- If your case is based on a house move you should provide evidence of confirmation of the completion of your house purchase; or a tenancy agreement; or any other relevant documentation.
- If part of your case for seeking a new school for your child is dissatisfaction with the current school, such as you believe your son/daughter is being bullied, you are advised to provide evidence such as letters of complaint and other correspondence.
- You are also invited to put forward any letters, written reports or documents or any other evidence that you think will support your case.

22. Can I ask the Appeal Panel to contact anyone, such as my doctor or social worker, to confirm what I have said on my appeal form or at the appeal hearing?

No. **You** are responsible for making sure that the Appeal Panel has any written supporting evidence at the appeal hearing.

23. When can I provide my supporting evidence?

You are advised to provide supporting evidence to the clerk at least 10 days before the hearing to ensure that it can be provided to the Appeal Panel and LA in time.

If additional information becomes available you should submit it to the Clerk so that it is received at least 3 school days prior to the hearing. Any material not submitted by this deadline may not be considered by the Appeal Panel.

If you submit significant information less than 3 school days before the hearing in certain circumstances this may result in an adjournment to enable the Appeal Panel and the LA officer an opportunity to read it in order to ensure that they give it proper consideration.

Please note that if you will not be attending the hearing your appeal will be decided on only the information available at the appeal hearing. Therefore, it is important that you make sure the Appeal Panel has all the letters and documents you wish it to consider. All of these must be sent to the Appeal Clerk to arrive at least 3 school days prior to the hearing.

24. How long does an appeal hearing take?

Appeal hearings are scheduled for between 30-40 minutes. For all appeals, you are advised to arrive at least 10 minutes before the first time shown on your letter as the Clerk will speak to you before your appeal starts in case you have any last minute queries about anything at all.

However, depending on how long it takes to hear any appeals listed earlier in the day, you are advised that there may be a delay and the waiting time may be 5 – 10 minutes or even longer.

25. What will happen at the appeal hearing?

We try to make appeal hearings as informal as possible and ensure that both you and the LA officer have a full opportunity to speak.

Procedure

- Chair welcomes all to the Panel and introduces all present

- Chair outlines the procedure to be followed

- The LA officer presents the case

- Questions of the LA Officer by all parties

- You present your case

- Questions to you by all parties

26. Does the Appeal Panel ever adjourn the appeal hearing?

Yes. The Appeal Panel may adjourn the appeal hearing to later in the same day or another day in the following circumstances:

- If substantial new issues are raised for the first time at the hearing it may be necessary to adjourn to allow any party taken by surprise to consider the issues; or
- If a parent submits a lot of additional information less than 3 school days before the hearing, which the Panel considers may need further investigation or which the LA may need time to respond to; or
- If the Appeal Panel requires further information to be obtained by the LA or parent; or
- If, due to the time it takes to deal with any stage of any appeal that was not anticipated, the Appeal Panel may have to adjourn that appeal or any other appeal to a later time or another day; or
- For any other appropriate reason.

27. What should I do if I think the LA has made a mistake in applying the admission criteria or the admission arrangements, including co-ordinated admission arrangements?

You are responsible for ensuring that you challenge what the LA has or has not done. Therefore, make it clear what aspect of the above you are challenging. However, Panel Members will ask questions if they believe that there is a discrepancy in the information they have been provided.

28. When does the Appeal Panel make its decision if there are other people appealing for the same school?

Where reasonable, decisions on individual cases will not be made until all parents have been involved in all stages of the process in order to avoid an injustice. However, in very exceptional circumstances, if a parent asks for their appeal to be heard later than the time arranged and if the gap is significant, it might not be reasonable to delay decisions for the other parents.

29. What does the Appeal Panel have to take into account in coming to its decision about my appeal?

The Appeal Panel must take into account the LA's case regarding prejudice that would arise at the school if another pupil were admitted, your preference of school, the reasons for your preference, and the admission arrangements and rules published by the LA.

30. What is an infant class?

An infant class is a class in which the majority of pupils will reach the age of 5, 6 or 7 during the school year. Therefore, normally infant classes are the Reception/Foundation Year and Years 1 and 2 but sometimes, when a school mixes its year groups, it might affect a class that has some Year 3 pupils.

For example, a class could have 18 Year 2 pupils mixed with 12 Year 3 pupils and this would be counted as an infant class because the majority of pupils in that class will reach the age of 7 in the school year.

0. What is the limit to the number of pupils in an infant class?

The School Standards and Framework Act 1998 states that, subject to certain limited exceptions, no infant class with a single qualified teacher may contain more than 30 pupils. Therefore, a LA must normally refuse to admit a child to a school if it judged that, the admission of an additional child would breach the infant class size limit and there are no measures it could take to avoid this without prejudicing the provision of efficient education or efficient use of resources.

In the case of infant classes, "prejudice" may arise where the limit on infant classes will be exceeded if another pupil is admitted. An appeal for a place in an infant class containing 30 pupils is known as a "class size" appeal.

31. Are all appeals for infant classes going to be "class size"?

Not necessarily. It depends on a variety of factors such as:

- the numbers admitted to the school;
- whether or not the pupils are taught as single Year Groups or mixed with other Year Groups;
- how many other parents are appealing.

33. How will I know if my infant class appeal is "class size"?

When the LA's case papers are sent to all parties, normally at least seven working days before the appeal hearing, they should state clearly whether it is or is not a "class size" appeal.

If the LA's case papers are not clear or if it has been indicated that there are others appealing for a place at the school you are advised to prepare your case for **both** an appeal where the Appeal Panel can take into consideration your personal circumstances **and** also to prepare your case on the basis that it is a "class size" appeal where the panel can only consider the factors set out at 34A.

34. How does the Appeal Panel decide whether to allow or refuse my appeal?

This will depend on whether or not it is a “class size” appeal.

A Where it IS a “class size” appeal the Appeal Panel is only able to look at four factors.

The Appeal Panel can only allow a “class size” appeal if one of the four factors stated below applies. Either:

Factor 1 – it finds that the admission of additional children would not breach the infant class size limit; or

Factor 2 - the child would have been offered a place if the published admission arrangements had been properly implemented; or

Factor 3 – the child would have been offered a place if the published admission arrangements had not been contrary to mandatory provisions in the School Admissions Code and the SSFA (School Standards and Framework Act) 1998; and/or

Factor 4 - the decision was not one which a reasonable admission authority would make in the circumstances of the case.

- Factor 1: Is whether the admission of an additional child/additional children would breach the infant class size limit.
- Factor 2: is whether the LA kept to its own rules as set out in its admission arrangements. If the LA did not follow its own rules, either deliberately or by mistake, then your appeal can be allowed but only if your child would have got a place at the school if the rules had been applied properly, except for where a significant number of children are affected in this way and the admission of all of them would cause serious difficulties at the school.
- Factor 3: is whether the LA's admission arrangements are unlawful and contrary to mandatory provisions in the School Admissions Code. If this is found to be the case then your appeal can be allowed but only if your child would have got a place at the school if the unlawful admission arrangements had not been in place, except for where a significant number of children are affected in this way and the admission of all of them would cause serious difficulties at the school.
- Factor 4: is whether the LA acted unreasonably. The law defines “unreasonable” carefully in these cases. For the decision to be unreasonable it must be completely perverse/ illogical or not based on the facts of the case.

The facts of the case include the published admission arrangements including the coordinated admissions scheme where applied, the internal operation of the school and the circumstances of your case. The Appeal Panel has to decide whether it is perverse, in light of the admission arrangements, to refuse to admit your child in the individual circumstances of your case.

Please note: You are free to talk about personal reasons **but** in this type of appeal the Panel will decide whether or not they are relevant to the four factors upon which an appeal can be allowed. If the Panel decides the factors are relevant, the Panel can then consider how much weight to attach to those factors.

B Where it is NOT a “class size” appeal the Appeal Panel follows a two stage process as follows (unless it is for a boarding place at a school – see section 34C) :-

- i) First stage: establishing the facts, at which the panel considers whether the school's published admission arrangements were correctly applied in the individual's case and whether they comply with the mandatory requirements of the School Admissions Code and the SSFA 1998 and decides whether “prejudice” would arise were the child admitted. If this is proved the Panel move on to the second stage.

- ii) Second Stage: balancing the arguments, at which the Panel exercises its discretion, balancing the degree of prejudice to the school against the parents' case for their child being admitted to the preferred school before arriving at a decision.

First Stage:

The panel must consider two separate issues:

1. Have the admission arrangements been properly implemented?

If the Appeal Panel finds that the admission arrangements have been wrongly and/or unlawfully applied or that they do not comply with the mandatory requirements of the School Admissions Code and the SSFA 1998 and but for this your child would have been offered a place at your preferred school, then it must allow your appeal except where a significant number of children are affected and the admission of all of them would cause serious prejudice. If it is not allowed on this ground, the Appeal Panel moves on to the next question.

2. Whether or not there would be "prejudice to the provision of efficient education or the efficient use of resources" caused by the additional admission of the child

In considering the question of "prejudice" the Panel will have regard to the current school organisation and structure, what effect an additional admission would have on later year groups, school's physical accommodation etc.

- *If you are the only parent appealing*: If the Appeal Panel find that the LA has not proved its case, your appeal will be allowed.
- *Multiple appeals where there is more than one parent appealing*: The Panel might find that the school could admit all the children concerned without prejudice, in which case it must uphold the appeals; Alternatively,
- The Panel might find that the school could admit some more pupils without prejudice arising but not all the children whose parents are appealing. In this case, the Appeal Panel will consider the number of pupils which they find could be admitted. The Panel will then move to the second stage to decide whether any of the individual parental cases outweigh the prejudice.

Second Stage: balancing the arguments

Do your reasons outweigh the "prejudice to the provision of efficient education or the efficient use of resources"?

The Appeal Panel will balance your reasons against the effect the admission of an extra pupil will have on the school.

- If the Appeal Panel decides that your case for your son/daughter is stronger than the case for the school, it will allow your appeal
- OR
- If it decides that your case is not stronger than the case for the school, it will refuse your appeal.

NB If your appeal is allowed, the decision is binding on the LA and the governing body of the school and your son/daughter must be admitted to the school.

C. Where it is for a boarding place (e.g. at Holyport College) the Appeal Panel is only able to look at whether the admission authority's decision was reasonable in light of the information available to it.

If you have been informed that a place has not been offered to your child because he / she was considered unsuitable to board please note that the Independent Appeal Panel is not allowed to make its own assessment of the child's suitability to board.

D. If your case is that the LA has refused admission for a reason related to your child's disability the Appeal Panel will also consider your case as follows:

The SEN and Disability Act 2001 bring all aspects of education within the remit of the Disability Discrimination Act 1995. With effect from September 2002, schools are under duties not to discriminate against disabled pupils and prospective pupils in their access to education, including admissions.

The LA and schools:

- **must not treat disabled children less favourably** than other pupils, or prospective pupils, for a reason relating to their disability without justification, and
- **must make reasonable adjustments** to ensure that disabled pupils, or prospective pupils, are not placed at a substantial disadvantage compared with non-disabled pupils.

There are two exceptions to the reasonable adjustment duty. Schools are not required to:

- provide auxiliary aids or services;
- remove or alter physical features.

It is **not** discrimination if, at the time, the responsible body did not know and could not reasonably have been expected to know that a pupil was disabled.

There are **three aspects of admission** specifically covered by legislation. The LA and schools must not discriminate against a disabled child:

- in the arrangements made for determining the admission of pupils to a school. This includes any criteria for deciding who will be admitted to the school when it is over-subscribed, and it includes the operation of those criteria.
- in the terms on which they offer to admit a disabled child to the school.
- by refusing or deliberately omitting to accept an application for admission to a school.

Therefore, the Appeal Panel will consider whether:

- the admission criteria have been applied correctly and impartially and do not contravene mandatory provisions in the Schools Admissions Code or the SSFA 1998
- the pupil is disabled as defined by the legislation and
- the pupil has been discriminated against for a reason that relates to the disability
- the school has taken reasonable steps to try and provide for that pupil and
- the adjustments required would be unreasonable in terms of costs and the efficient education of other pupils.

In considering these appeals, the Appeal Panel must take into account the Disability Rights Commission's guidance in their Code of Practice for Schools.

35. How will I find out the outcome of my appeal?

You will be informed of the Appeal Panel's decision in writing. The letter will set out the Panel's reasons for the decision. At the hearing the Clerk will tell you when you can expect to receive the letter. This is usually within 5 school days of the hearing, but may be longer if there are multiple days of hearings for the same school.

36. If my appeal is refused can I appeal again?

No. There is no appeal against the decision of the Appeal Panel. However, if there are **significant** and material changes in the circumstances of the school or your circumstances (e.g. you move into the catchment area, or a medical condition has arisen since you last applied), you have the right to re-apply for admission within the same academic year. If the school still cannot admit you, you have the right to a fresh appeal.

Also, you may re-apply in the following academic year and you have the right to a fresh appeal if it is still necessary because the year group is still full.

37. What can I do if I am unhappy about the appeal process?

A) If your appeal was for a maintained school:

If you think that the proper procedures have not been followed and/or the Panel has not acted independently or fairly you can ask the Local Government Ombudsman (LGO) to investigate. The LGO can only investigate written complaints about maladministration on the part of the Appeal Panel. This is **not a right of appeal** and the LGO is not able to overturn an Appeal Panel's decision.

Maladministration means that there has been a fault in the way something has been done or not done. It has to relate to issues, such as you believe the Panel has not been properly set up or has not followed procedures correctly. The LGO would not criticise the decision of a Panel, which fairly took into account all the evidence presented by both the parents and the LA, just because the parents disagreed with the decision reached.

If, following investigations, the LGO finds there has been maladministration that might have caused you an injustice, one of the remedies s/he can suggest is that there should be a fresh appeal hearing with different Appeal Panel members.

B) If your appeal was for an Academy:

If you consider the Appeals procedure has not been carried out properly, you can complain to the Education Funding Agency, Admission Appeal Complaints, Academies Central Unit – Education Funding Agency, 8th Floor, Earlsdon Park, Butts Road, Coventry CV1 3BH. Website link to the appeals section:

<http://www.education.gov.uk/schools/adminandfinance/schooladmissions/a00204768/appeals>

Email: academyquestions@efa.gov.uk

38. Can anyone complain to the Secretary of State?

The Secretary of State cannot review or overturn an appeal decision relating to a maintained school. An Appeal Panel's decision can only be overturned by the courts where the appellant or admission authority is successful in applying for a judicial review of that decision.

The Secretary of State may consider:

- Whether the Appeal Panel was correctly constituted; and
- Whether the admission authority has acted reasonably in exercising functions in respect of the appeal process or has failed to discharge any legal duty in relation to that process.

If, for example, the Appeal Panel was not properly constituted, the Secretary of State could exercise his/her powers by directing that a properly constituted Panel should be set up to consider a fresh appeal.

39. What if I think that the decision of the Appeal Panel was wrong in law?

If you, or the LA or the School Governing Body considers that the decision of the Appeal Panel is an error of law, any one of you could apply for a judicial review.

If a judicial review were granted, the Court would consider the lawfulness of the Appeal Panel's decision. If it found the Panel's decision to be unlawful or unreasonable (irrational or perverse in the legal sense), it could overturn the decision, or it could order that a fresh appeal hearing be set up with new Appeal Panel members.

If any party to the appeal wishes to consider this course of action they should take independent legal advice **as soon as possible** as normally there is a time limit

40. What should I do if my appeal has been refused and I do not want to send my son/daughter to the school that has been allocated?

You can apply for other schools, and if these cannot admit any more pupils you have the right of appeal for a place at these other schools. Also, you may appeal against the decision to allocate your child a particular school. However, this type of appeal is normally heard only if and when all your appeals for your preferred schools have been unsuccessful.

You should contact the LA as soon as possible about alternative school places as **you have a legal duty** to have your child educated. Failure to do so could result in criminal proceedings against you.

41. If I appeal does my child move up the waiting list?

No. Your child's position on this list is not affected by appealing.

42. What happens if a place becomes available at my preferred school after the appeal decision?

If your child's name is top of the waiting list, s/he will be offered that place. Otherwise, where the number of pupils in a year group drops below the Admission Number for that cohort, further pupils will normally be admitted up to that Admission Number. Therefore, you may wish to contact the School Admissions Team during the remainder of the academic year to see if places have become available after your appeal was heard. However, if the year group is still full during the same academic year, you would not be entitled to another appeal in these particular circumstances.

Useful addresses

Enquiries about this Guidance and the appeals process in the Royal Borough of Windsor & Maidenhead should be addressed to:

Clerk to the Appeal Panel

Democratic Services
Town Hall
St Ives Road
Maidenhead
SL6 1RF

Tel: 01628 796319 / 796345

E-mail: democratic.services@rbwm.gov.uk

Enquiries about other aspects of admissions & alternative school preferences should be addressed to:

Admissions Team

Town Hall
St Ives Road
Maidenhead
SL6 1RF

Tel: 01628 683870

E-mail: admissions@rbwm.gov.uk

Other Useful Contacts

Advisory Centre for Education (ACE)

(Advice & information on education issues regarding State funded education for children aged 5-16 years in England only)

E-mail: enquiries@ace-ed.org.uk

Website: www.ace-ed.org.uk/advice.html

The Coram Children's Legal Centre

(Free legal advice on English law & policy affecting children and families. Offer free telephone advice on education issues)

Advice line: 0300 330 5485

Website: www.childlawadvice.org.uk

The Equality Act 2010 – Equality Advisory Support Services (EASS)

(Advice/help on discrimination claims)

Helpline: 0808 800 0082 or textphone 0808 800 0084 (Mon-Fri 9am-8pm & Saturday 10am-2pm)

Website: <https://www.gov.uk/discrimination-your-rights>

Secretary of State for Education

If you would like to ask someone at the DfE about school admissions, contact their Public Enquiry Unit as follows:

Department for Education (DfE)
Sanctuary Buildings
20 Great Smith Street
London
SW1P 3BT

Tel: 0870 000 2288

Email: info@education.gsi.gov.uk

Website: www.education.gov.uk

Copies of the School Admissions & School Admission Appeals Codes are available to view at: www.education.gov.uk/

The Local Government Ombudsman

Re Complaints of maladministration but **NOT FOR ACADEMIES**

PO Box 4771,
Coventry
CV4 0EH
Tel: 0845 602 1983 or 0300 061 0614
Fax: 0247 682 001
Email: advice@lgo.org.uk
Website: www.lgo.org.uk

Education Funding Agency

Re Complaints of maladministration – **ACADEMIES ONLY**

Admission Appeal Complaints
Academies Central Unit – Education Funding Agency
8th Floor, Earlsdon Park
Butts Road
Coventry CV1 3BH

Website link to the appeals section:

<http://www.education.gov.uk/schools/adminandfinance/schooladmissions/a00204768/appeals>

Email: academyquestions@efa.gov.uk