

# **Education Appeal Panel**

(Guidance for Parents)

2018/2019

## OBJECTIVES OF ADMISSION APPEALS

The fundamental objectives of admission appeals are to:-

- (a) provide an independent, impartial and informal but structured forum for appellants and the admission authority concerned, to present their respective cases and to be confident that they will be given a fair hearing;
- (b) ensure that appeal panels weigh up all the evidence presented to them carefully and objectively before reaching a final decision on the appeal;
- (c) operate within education and other relevant legislation, including the Human Rights Act 1998 and the Equality Act 2010. Appeal panels are also required to have regard to guidance in the Equality and Human Rights Commission's Code of Practice for Schools when determining an appeal. Appeal panels are carrying out a judicial function and *must* apply the principles of natural justice.
- (d) operate in accordance with the mandatory provisions of the School Admission Appeals Code, having regard to all relevant guidance in conducting appeals arrangements, including this Code and the School Admissions Code; and
- (e) to provide a system which is clear, consistent and easy to understand by everyone involved, particularly by parents and children.

## THE ROLE OF THE APPEAL PANEL ADMINISTRATOR

The Appeal Panel Administrator (Administrator) is responsible for the administration of your appeal. Although engaged by Kent County Council, the Administrator acts in an entirely impartial way. He/she will be happy to answer questions about the appeal arrangements but cannot advise on the details of your case.

The Administrator will send copies of the appeal papers to the Panel members in advance of the hearing. At the same time a set of the papers will be sent to you and the Presenting Officer for the school. The appeal papers will include your letter, any accompanying documents, as well as information giving reasons why your child has not been offered a place at the school in question.

If you are appealing for a place at a Grammar school you must demonstrate that the child is of the required academic standard, for example, any current test results and recent school reports and/or a letter of support from the current or previous school clearly indicating why the child is considered to be of grammar school ability. You may submit additional information in support of your appeal (including medical evidence), which should be at least 5 school days before the hearing date - clearly marked "additional information" with your child's name and school you are applying for. If you need to present anything new on the day of the hearing there is a slight risk that the proceedings might have to be adjourned.

It is not recommended that you submit or bring to the appeal examples of your child's school work as the Panel will not be in a position to make a proper judgement about its

quality. The members would have nothing to measure it against and would not know the depth of the work submitted. Also they would not know whether the work had been carried out unaided.

If you do need to send any documents to us please ensure that:

The correct postage is used

They are A4 in size (please reduce or enlarge any documents that are not A4)

They are not fastened by staples, treasury tags or clips

They are not in plastic or document wallets or binder/lever arch files

They are not separated by file dividers or by any other means

There is no provision to copy any documentation in colour therefore please bear this in mind when you send your information.

Due to Health and Safety and time constraints there is no provision at any of our appeal hearing venues to make Power Point, video or other audio/visual presentation about your child.

### APPEAL PANEL MEMBERS

Your appeal will be considered by a Panel of three independent trained volunteers. Each panel is made up from: - one or two Lay members, (*i.e. people without personal experience in the management or provision of education, in any school, do not work for the school, cannot be governors of the school and are not parents of a child at the school*) and one or two non Lay members who have special knowledge and/or experience of the provision of education or who are parents of pupils at other schools, (*but cannot work for the school or the local authority in an educational capacity, except as a retired teacher or a teacher from another school, nor be governors of the school*).

None of the Panel will have had anything to do with your case prior to you submitting your appeal. You will be advised in advance of the hearing of the names of the members and clerk who it is anticipated will hear your appeal.

### WHEN AND WHERE

Your appeal may be scheduled for any time from 09.00 to 16.30 between Monday to Friday only.

You will receive written notice of the date and time of your appeal 10 school days in advance of the hearing unless you have waived this right. It may be possible to call a meeting at shorter notice if everyone involved agrees. We will endeavour to hold your appeal at a local venue. If this is not possible it will be held in Maidstone. You will be met in the reception area by the Clerk.

Appeals take approximately 30 minutes. Every effort is made to keep to your appointment time. However, there is occasionally some delay if previous appeals take longer than expected.

### WHO ATTENDS THE APPEAL

Parents and the Admission Authority representative are normally present at the hearing to give information and answer questions. Indeed, it is very important that you try to attend the hearing personally no matter how uncertain or nervous you may feel. This is because it helps the Panel gain a deeper understanding of your case if you are there in person.

However, given the complexity and large number of appeals to be scheduled, it is inevitable that some parents will receive a date for their appeal that they cannot attend. If this is the case you may wish to send a representative on your behalf. *(Please advise us well in advance of any dates that you know you will be unavailable and we will try to accommodate you on another day within the dates timetabled for the school that you are appealing for, but we cannot guarantee this).*

The Panel Members do understand that it is not always possible for parents to attend. They do, however, also understand that appeals for the same school should be heard together.

If you do not attend, the representative will still be entitled to appear at your hearing - but not to introduce fresh evidence.

If you do not wish to, or find that you cannot attend your appeal on the day, for whatever reason, the Panel Members will hear the appeal in your absence and make their decision based on the information available to them at the time. If you are not attending the appeal, please let the Administrator know in advance so that the Clerk is aware of this.

You are welcome to bring someone to help you put your case.

Your 'friend' or adviser at a hearing can be a locally elected politician, or an employee of the local education authority such as a an educational social worker, SEN adviser or learning mentor, provided that this will not lead to a conflict of interest.

Representatives of the schools being appealed for must not support individual appeals at the hearing itself or by providing letters of support for appellants, because of possible conflicts of interest and the possibility of unfairness to other appellants.

As this is not a court of law, and bearing in mind the importance of maintaining an informal atmosphere, legal representation will not usually be necessary. Whoever attends, the County Council cannot pay costs.

Please advise the Administrator in advance if you need the help of an interpreter or have special access requirements because you are disabled.

## APPEAL PANEL PROCEDURE

The Clerk will introduce you to the Admission Authority representative before you go into the room.

This is an informal tribunal, but obviously it needs to be properly organised. The normal procedure is as follows:-

1. The Chairman welcomes you to the meeting and introduces the Appeal Panel. During the hearing the Clerk will take notes of what is said in case the Panel needs to refer to them afterwards. These are not published. The Clerk will also be responsible for giving legal and procedural advice to the members of the Appeal Panel. The representative from the Admission Authority begins by explaining why your child has not been offered a place at your preferred school. If you wish to ask any questions about what has been said you may do so.
3. The Chairman will then invite you to present your case. Remember that the Panel will have read all the documents in advance so it is not essential to go over everything in detail. The Panel and the Admission Authority representative may then ask you questions if they need more information.
4. The Chairman will ask you if you feel that you have had the opportunity to present your case and all the information that you wish the Panel to take into account in reaching its decision, as once the summing up has taken place there is no further opportunity for either side to add to their case.
5. The hearing finishes with the Admission Authority representative, and then you, having a chance to sum up.

*(The Panel members may ask questions at any time to make sure that they understand all the points made by you and the School representative or if they need more information in order to reach a decision.)*

## THE DECISION

At the end of the hearing you and the Admission Authority representative leave while the Appeal Panel considers the case in private. The Clerk will stay behind to record the Panel's decision. *(Please be aware that where several appeals for the same school are being held, decisions will not be made on individual cases until all of the appeals have been heard).*

In making a decision the Panel has to take into account the school's published admission arrangements as well as what was said at the hearing and written in the documents.

All appeals must follow the two-stage process as detailed below:- see exceptions for Infant Class Size Appeals

First Stage: establishing the facts: at which the panel considers whether the school's published admission arrangements:

- i. comply with the mandatory requirements of the School Admissions Code and Part 3 of the SSFA 1998.
- ii. were correctly and impartially applied in the individual's case and decides whether "prejudice" would arise were the child to be admitted. If this is proved, the panel moves on to the second stage.

(b) Second Stage: balancing the arguments, at which the panel exercise its discretion, balancing the degree of prejudice to the school against the appellant's case for their child being admitted to the preferred school, before arriving at a decision.

Among the factors the Appeal Panel may consider are:-

- whether there is a place, together with sufficient equipment and facilities, to accommodate your child and the likely impact on other pupils in the school;\*
- whether your child's abilities are suited to the school concerned (*usually only relevant when assessment of suitability for a grammar or specialist school is concerned*);\*
- whether the selection or allocation procedure was followed correctly;
- any special circumstances for overriding the Admission Authority's decision. This last point is important as it is possible for the Appeal Panel to take into account factors which are not specifically referred to in the admission criteria or to conclude that the parental arguments outweigh the problems of admitting an extra pupil.

*\*Section 86 of the School Standards and Framework Act (SSFA)1998 provides that the admission authority for a maintained school (with exception of those that select wholly by ability) **must** comply with any preference expressed by a parent except where to do so would prejudice the provision of efficient education or the efficient use of resources.*

#### INFANT CLASS SIZE APPEALS:

#### KEY STAGE 1 CLASS SIZE RESTRICTIONS

The majority of appeals for admission into Reception, Year 1 or Year 2 at an infant or combined school will be heard as 'Infant Class Size Appeals'.

Statutory limits on class size mean that, apart from some very limited exceptions, infant classes of 5, 6 and 7 year olds may not contain more than 30 pupils with a single teacher.

Where the published admissions number of a school allows for classes of 30 pupils, then

the Admission Authority will have refused admission on the grounds that to admit one more child would breach the infant class size limit.

Although you have a legal right to appeal under this criteria, there are very limited circumstances in which a Panel can direct a child to be admitted to a school.

The Panel can uphold an appeal on 'class size prejudice' grounds **only** if they are satisfied that one of the following apply:

The Panel **must** consider all the following matters:

- whether the admission of an additional child/additional children would breach the infant class size limit;
- whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998;
- whether the admission arrangements were correctly and impartially applied in the case(s) in question; and
- whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case.

As grounds for upholding an appeal of this type are very limited, the percentage success rate is minimal. In considering whether you wish to appeal in such circumstances, you must be aware that your personal reasons for wanting the school, however strongly you feel, cannot be taken into account, unless any of the above circumstances apply.

Parents are often distressed that their personal reasons were not considered due to the very limited criteria therefore, please think carefully before submitting an appeal of this type.

For an appeal to be successful under "Ground (d)" the Panel will need to be satisfied that the decision to refuse to admit a particular child was "perverse in the light of the admissions arrangements" i.e. it was "beyond the range of responses open to a reasonable decision maker" or "a decision which is so outrageous in its defiance of logic that no sensible person could have arrived at it."

In multiple appeals a number of children would have been offered a place and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the Panel **must** proceed to the second stage.

The Panel **must** dismiss the appeal at the first stage where:

- it finds that the admission arrangements did comply with admissions law and were correctly and impartially applied; or
- it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that, if they had complied and had

been correctly and impartially applied, the child would not have been offered a place;

and it finds that the decision to refuse admission was one which a reasonable admission authority could have made.

## **Second stage - comparing cases**

The Panel **must** compare each appellant's case for their child to be admitted and decide which of them, if any, to uphold. Where the school could admit a certain number of children without breaching the infant class size limit (or without needing to take measures to avoid breaching it that would prejudice the provision of efficient education of efficient use of resources) the Panel **must** uphold the appeals of at least that number of children.

## LETTING YOU KNOW

The Clerk will write to you and the Admission Authority giving the Appeal Panel's decision as soon as possible. Please note decisions cannot be conveyed by telephone in the interests of protecting confidentiality. The Appeal Panel's decision is binding on all parties. The Appeal Panel is the final stage of appeal.

For Local Authority and Foundation and Aided complaints contact:-

## THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN

The Local Government & Social Care Ombudsman can investigate written complaints about maladministration on the part of an admission appeal panel. This is not a right of appeal and has to relate to issues such as a failure to follow correct procedures or a failure to act independently and fairly, rather than just that the person making the complaint thinks that the decision is wrong. If you have a complaint of this sort you should refer it direct to:

**The Local Government & Social Care Ombudsman,**  
PO BOX 4771, Coventry CV4 0EH.  
Tel: 0300 061 0614, Monday - Friday 8:30 am - 5:00 pm.  
To complete online complaint form visit: [www.lgo.org.uk](http://www.lgo.org.uk)

For Academy & Free School complaints:

**ESFA (Education Skills Funding Agency)**  
Academies Complaints & Admission Unit  
Earlsdon Park, 53-55 Butts Road, Earlsdon Park, Coventry CV1 3BH  
To complete online complaint form visit: [www.gov.uk](http://www.gov.uk)



Email: [academy.questions@education.gsi.gov.uk](mailto:academy.questions@education.gsi.gov.uk)

### FOR MORE INFORMATION

This leaflet is intended to help you in your appeal against the Admission Authority's decision not to offer your child a place at your preferred school.

The information in these notes is for guidance only and is based on the Code of Practice for School Admission Appeals published by the DfE. This document, and a related Code of Practice on school admissions generally, is available from the DfE website [www.education.gov.uk](http://www.education.gov.uk)

*The legal basis for Appeal Panels is contained in the School Standards and Framework Act 1998.*

### CONTACT DETAILS FOR MORE INFORMATION

**The Appeal Panel Administrator  
Governance & Law Unit  
Room 1.99  
Sessions House  
County Hall  
Maidstone ME14 1XQ**

**Tel: 0300 041 4222**

Email: [appeals@kent.gov.uk](mailto:appeals@kent.gov.uk)

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

Admissions Team  
Room 2.20  
Sessions House  
County Hall  
Maidstone ME14 1XQ

Tel: 0300 041 2121

Fax: 0300 333 6480

Email: [kent.admissions@kent.gov.uk](mailto:kent.admissions@kent.gov.uk)