

Independent Appeals Service for Hampshire Schools

ADMISSION APPEAL – GUIDANCE NOTE

1. What is parental preference?

You do not have the simple right to choose a school for your child. The law gives you the right to express a preference for a school and the Admission Authority has a legal duty to meet your preference unless doing so will prejudice the provision of efficient education or the efficient use of resources.

If your child is refused admission to your preferred school, you can make an appeal to the independent appeal panel which the Admission Authority has set up to consider admission appeals. Your appeal must be in writing and must set out the grounds on which it is made.

2. What is the Independent Appeal Panel?

All appeals will be heard by an independent appeal panel constituted in accordance with School admission appeals code 2022. The panel must comprise of a panel chair and at least two other panel members with at least one from each category as follows:

- (a) People who are ‘Lay’ members. This means people without personal experience in the management of any school or the provision of education in any school (disregarding experience as a school governor or in another voluntary capacity); and
- (b) People who have experience in education, are acquainted with the educational conditions in the Local Authority area or are parents of registered pupils at a school. These people are known as ‘Non Lay’ members

In Hampshire, the appeal panel comprises of three members – two from category (a) and one from category (b) or vice versa. The members of the panel are all volunteers. They are not allowed to be councillors and they receive no payment other than reimbursement for travelling expenses. All have undertaken training as required by the School Admission Appeals Code. Administrative support for the panel is provided by the Independent Appeals Service and a Clerk will attend the hearing to take a note of the panel’s proceedings, the decision and the reasons for the panel’s decision. The Clerk may also advise the panel on procedure and the School Admissions and School Admission Appeals Codes if required.

The training of panel members may involve trainee members and clerks attending hearings as observers, which may include them sitting in on the panel’s deliberations. They will not participate in any of the proceedings.

3. What is an appeal hearing and what is the School Admission Appeals Code?

An appeal hearing is when the independent appeal panel set up by the Admission Authority considers your appeal. Appeal hearings must be conducted in the presence of all panel members and parties and, except in the case of grouped multiple appeals where all parents will be present for Stage 1 of the appeal (see paragraph 10), must be heard in private. Appeal panels perform a judicial function and need to be transparently independent and impartial.

The School Admission Appeals Code is a national code governing school admission appeals. It imposes mandatory requirements and includes guidance on the conduct of appeal hearings. The appeal panel must, by law, have regard to the Code.

4. What information does the Admission Authority provide?

The Admission Authority will provide a written statement summarising its case as to why further admissions should not be allowed. We will send your notice of appeal, together with any other documentation which you have submitted, and the Admission Authority's written statement, by first class post to the panel, to you and to the Admission Authority seven days before the hearing so that all parties are aware of the other's case in good time.

5. How much notice will I have of the date of the hearing?

You are entitled to written notice of the date at least 10 school days in advance of the hearing. It may be possible to give you more notice, but this cannot be guaranteed. Sometimes a hearing for places at your preferred school will already have been arranged before you appeal, the appeal form invites you to forego the minimum 10 school days' notice so that you can have your appeal heard at the earliest possible opportunity.

6. Should I attend the hearing?

You are recommended to attend the appeal hearing in person to present your case. Proceedings are largely at the discretion of the appeal panel but will be as informal as circumstances allow. You may be accompanied or represented by a friend, adviser, interpreter, or signer who may, with your agreement, speak on your behalf at the hearing. Legal representation is not likely to be conducive to the informality of the hearing and should not usually be necessary. If you plan to be legally represented, you should advise the Clerk to the appeal panel in advance. Occasionally parents ask if their child can attend the hearing. Whilst there is nothing to prevent this, the appeal is about refusal of a parent's statutory right to express a preference for a particular school, and so attendance can be distressing for some children. It will also be at the panel's discretion whether your child is allowed to speak.

7. What if I can't attend or prefer not to attend?

If you do not wish to attend or are unable to attend, then you can send someone to attend on your behalf. If you are unable to find someone to attend on your behalf, then the appeal panel will deal with your case based on your written evidence. In these circumstances, please ensure you put everything in writing to support your case as you will not be able to expand further in person at the hearing. The Admission Authority's representatives will still attend to present their case and the appeal panel may ask questions of them. If you are not at the hearing, the Admission Authority's representatives could draw issues to the attention of the panel, for instance, if they wished to challenge the accuracy of anything you had written.

8. What do I do if I have some questions on the Admission Authority's submission before the appeal hearing?

If appealing for a community school, you should contact the County Council's Admissions Team on 0300 555 1377 or e-mail admissions.team@hants.gov.uk and they will do their best

to clarify the position for you. If appealing for a voluntary aided, foundation or academy school, you should contact the school direct.

9. Where will the hearing be?

Every effort is made to find a venue within a reasonable distance of the schools for which appeals are to be heard but suitable accommodation is not always available. Occasionally, therefore, to avoid delay, we have no choice but to arrange hearings in Winchester.

10. What happens at the appeal hearing?

The appeal panel will follow a two stage process as detailed below:

Stage 1: Examining the decision to refuse admission

The Admission Authority presents its case and the panel will consider whether the school's published admission arrangements comply with the mandatory requirements of the School Standards and Framework Act 1998 and School Admissions Code and whether they were correctly and impartially applied in your case. (Please note, if there is more than one appellant present at the hearing, this issue, although Stage 1, will be heard at Stage 2 for reasons of confidentiality).

If it is clear that your child would have been offered a place had the admission arrangements been properly implemented the panel 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 admission arrangements are found to comply with the Admissions Code, and no mistake is identified that prevented your child being offered a place, then the panel will consider whether prejudice would arise from the admission of a further child (or more children in the event of there being more than one appellant).

The panel may ask questions of the Admission Authority's representative(s) and so may you. If the panel concludes that prejudice exists, it will be necessary to move to Stage 2.

Stage 2: Balancing the arguments

You present your case, and the panel must balance the prejudice that would be caused to the school against the merits of your case, before arriving at a decision.

The panel will have read what you have written in your appeal form so you will not need to read that out but you may want to emphasise your main points or add some explanation. You might make some written notes beforehand to help you on the day if you are not used to speaking in front of people. The panel will do their best to make you feel at ease, however.

The appeal panel or the Admission Authority may ask you questions and the Admission Authority may make additional representations regarding issues raised in the second stage of the hearing. The Admission Authority will be given the opportunity to sum up any issues raised in the second stage and then you will be offered the opportunity to sum up. No new evidence should be given in summing up.

The appeal panel must take into account the reasons expressed for your preference. If the panel considers your case to outweigh the prejudice to the school, it must uphold the appeal.

In multiple appeals, where more than one case outweighs the prejudice to the school, but the school cannot admit all those pupils, the panel must go on to compare the cases and uphold those who have the strongest case for admission.

Where the appeal panel is considering a number of appeals for the same school, the case put forward by each parent during the second stage is heard individually and confidentially. No decision is reached on any appeal until all parents' cases have been considered. Having received all the evidence, the appeal panel must decide whether or not your appeal should be allowed. The panel will do this in private with only the Clerk present. If they conclude that the strength of your argument does not outweigh the prejudice which admission would cause, then your appeal will be dismissed.

11. Can I withdraw my appeal?

You can withdraw your appeal at any time before the hearing. Just email the Independent Appeals Service at independent.appeals.service@hants.gov.uk

12. How do I find out what the Panel decided in my case?

The Clerk will notify you, the Admission Authority, and the school in writing of the appeal panel's decision on your appeal ideally within 5 working days of the hearing (although this is sometimes not possible at times when there is high demand on the service). The panel can only uphold or dismiss your appeal. It has no other functions. Its decision is binding on the Admission Authority and can be overturned only by the courts.

If you are unsuccessful the County Council's Admissions team will be able to tell you where school places are available. You can contact them to discuss your options (see section 8 for details) and make enquiries about places at other schools. If your appeal is successful, then you should contact the school to make the necessary arrangements.

13. Will there be any difficulties with the school if my appeal is successful?

The school understands how difficult the appeal process can be for parents and will accept the outcome without recrimination. Your child will be welcomed at the school exactly as any other new entrant to the school.

14. Do I have a further right of appeal if my appeal to the Independent Appeal Panel is unsuccessful?

There is no further right of appeal for admission in the same academic year (except where section 16 applies), but if you believe that the hearing was not properly conducted then you may complain to the Local Government Ombudsman who will investigate and decide if there has been maladministration. The appeal panel's decision can be overturned only by the courts where you or the Admission Authority are successful in applying for Judicial Review of that decision.

15. Can I complain to the Secretary of State?

The independent appeal panel is an independent body and falls outside the scope of the Secretary of State's powers. The Secretary of State cannot review or overturn decisions of appeal panels, but can consider, under sections 496, 497, 497A of the Education Act 1996, whether:

- (a) The appeal panel was correctly constituted by the Admission Authority; and
- (b) The Admission Authority has acted reasonably in exercising functions in respect of the appeal process or whether it has failed to discharge any legal duty in relation to that process e.g. by failing to constitute the panel properly.

16. Can I reapply for a place at the same school in the same academic year?

Only if there has been a significant and material change in your circumstances or those of the school relevant to a further application. If you consider that there has been such a change in circumstances, you should contact the County Admissions team in the first instance to discuss this.

17. If I accept a place at another school, will it affect my right of appeal?

Accepting a place at another school will not impact on your right of appeal.

18. Will my appeal affect my place on the waiting list?

The waiting list is not relevant to your appeal. Your appeal will not affect your place on the waiting list.

19. What if my child has special educational needs?

If your child has a statement of special educational needs, any dispute about their school placement will be dealt with through the Special Educational Needs and Disability Tribunal (SENDIST), not an independent admission appeal panel. If your child has special educational needs but does *not* have a statement, the appeal will be considered by the appeal panel in the same way as any other.

20. If I decide to appeal on behalf of my child, what do I do now?

If you decide to appeal you will need to complete the following steps:-

- (1) Ensure you have received a written refusal letter or, in respect of applications made in the course of the normal admission round, your allocation letter from your home Local Authority. Your appeal will not be accepted unless you have been formally refused at your preferred school.
- (2) Complete the notice of appeal form. You can do this online at www.hants.gov.uk or by requesting a paper form from the Appeals Team on 01962 847318. Before you write anything, read the school's brochure, especially the admission criteria, to see which ones might apply to your child. You can include anything you think is relevant. It is helpful to receive all your written evidence at this stage; however, you will have a further opportunity to submit any additional evidence to be included as part of your case once the appeal hearing has been arranged. Details of how to do this and where to send additional papers will be included in the notification letter sent nearer the time.
- (3) If you have medical information to support your appeal you should make sure that you send a copy of this in with your appeal form. Make sure that you keep the original.
- (4) Send your completed appeal form and any other supporting documents to the Independent Appeals Service **within the timescales outlined in the covering letter.**

As soon as your notice of appeal is received the appeal process starts. For appeals during the school year (that is, those *not* concerned with admissions to the year of entry in the following September but for immediate admission) the Admission Authority must arrange for a hearing within 30 school days of the appeal being lodged. Appeals during the normal admission round for the following September will be scheduled to be heard throughout the summer term, but must be heard within 40 school days of the deadline for lodging appeals. For late applications, appeals should be heard within 40 school days from the deadline for lodging appeals where possible, or within 30 school days of the appeal being lodged. Appeals submitted after the deadline must still be heard, but this can be done to a timescale set by the admission authority.

21. Useful Contacts

Independent Appeals Service for Hampshire Schools
Corporate Services
Hampshire County Council
The Castle
Winchester
Hampshire
SO23 8UJ

- (t) 01962 847318 (24 hour – answerphone outside office hours) / 01962 847345
- (f) 01962 840215
- (e) Independent.Appeals.Service@hants.gov.uk

Department for Education (DfE)

Castle View House
East Lane
Runcorn
Cheshire
WA7 2GJ

- (t) 0370 000 2288
- (f) 0161 600 1332
- (w) www.education.gov.uk

Education Funding Agency

- (t) 0370 000 2288
- (w) <https://www.education.gov.uk/help/contactus/efa>

Local Government Ombudsman

PO BOX 4771
Coventry
Warwickshire
CV4 0EH

- (t) 0300 061 0614
- (f) 02476 820001

(w) www.lgo.org.uk

Office of the School's Adjudicator

Mowden Hall
Staindrop Road
Darlington
DL3 9BG

(t) 01325 735303

(w) <http://www.gov.uk/government/organisations/office-of-the-schools-adjudicator>

Coram Children's Legal Centre

Coram Children's Legal Centre
Riverside Office Centre
Century House North
North Station Road
Colchester
CO1 1RE

(t) 01206 714650

(f) 01206 714660

(w) www.childrenslegalcentre.com

ACE Education Advice

72 Durnsford Road
London
N11 2EJ

(w) www.ace-ed.org.uk

(e) enquiries@ace-ed.org.uk

Children's Education Advisory Service

Trenchard Lines
Upavon
Pewsey
Wiltshire
SN9 6BE

(t) 01980 618244

(w) <https://www.gov.uk/childrens-education-advisory-service>

(e) enquiries@ceas.uk.com

School Admission Appeals Code

<https://www.gov.uk/government/publications/school-admissions-appeals-code>

School Admissions Code

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**If you need this leaflet in another format, e.g. large type or Braille, or in another language, please let us know.**

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