



School Admission Appeals during COVID-19

A Guide for Parents appealing for a place at a school or academy which is its own admission authority.

For foundation, voluntary aided, trust and free schools as well as academies the governing body or trust board is the admission authority for the school and are therefore responsible for organising admission appeals.

Appeals for a transfer admission round (i.e. admission to Reception classes, transfer to junior school and transfer to secondary school) must be heard within 40 school days of the deadline for lodging appeals. Appeals in respect of in year admissions must be heard within 30 school days of the date of the appeal being lodged with the school.

Each reference to a school below also includes academies.

What are my rights?

As a parent you have the right to say which school you would prefer your child to go to. This is not the same as having the right to choose which school your child goes to.

The school's governing body, which is responsible for admissions, must offer your child a place at the school you would like them to attend UNLESS they can show that doing this will harm the quality of education they provide or make it less efficient.

The legal phrase for this is:

"That to do so will prejudice the provision of efficient education or the efficient use of resources."

This means that the governors of the school have agreed that there should be a limit to the number of pupils that can be accommodated at the school or in an individual classroom. If the school has to go over that number, then it will cause some difficulties. It is up to the Appeal Panel at an appeal to decide if this limit is reasonable.

If your application for a place has been turned down, you have the right to appeal against that decision to an independent Appeal Panel.

If your child has an educational, health and care plan (EHCP) or Statement of Special Educational Needs (SEN), your appeal will need to be made to the Special Educational Needs Tribunal.

You do not have the right to appeal for a school if your child has been permanently excluded from two or more schools.

Your right to an appeal is set out in Section 86 of the School Standards and Framework Act 1998.

How are independent appeal panels set up?

Panels are set up under Schedule 24 of the School Standards and Framework Act 1998. They are usually made up of either three or five people selected as follows:

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| At least one Lay Member | - Someone who is not directly connected with the Council, or with any of the Council's Schools, unless as a volunteer. |
| At least one person with knowledge or experience of education | - Someone who has experience in education; or who is familiar with schools in Norfolk; or who is a parent of a child at a school (though they cannot be parents of a pupil at the school concerned in the appeal). |

The remaining panel member(s) will be from either of the above categories.

The independence of Appeal Panels

The law says that Panels must be independent, and there are many ways that we can show this. For example: -

- They are not paid.
- They do not report to, nor are they responsible to, the County Council.
- They must work within the national statutory Code of Practice on School Admission Appeals.
- Members do not sit on Panels where they have a conflict of interest.
- The work of the Panel is monitored by the Council on Tribunals.
- Parents and education representatives are not present when a Panel makes its decisions.
- The decision of the Panel is binding on both Children's Services and the parents.

What powers do the Appeal Panel have?

The appeal panel can either refuse or allow your appeal.

The appeal panel cannot: -

- attach any conditions if it allows your appeal.
- hear complaints or wider objections about local admission policies and practice.
- make Children's Services change your position on the waiting list for the school.

The role of the clerk

The clerk is not a member of the panel but has an important role to play in ensuring that relevant facts are established and that the appeal hearing is fair.

The clerk will be properly trained. The clerk's key tasks are to:

- explain the basic procedures to parents/guardians and deal with any questions they may have.
- make sure that the facts are presented.

- make sure that the appeal runs smoothly.
- be an independent source of advice on the way the appeal is run.
- write notes of the meeting, decisions and reasons.
- tell all parties of the panel's decision.

How do I prepare for the Hearing?

Due to the COVID-19 pandemic, the Department for Education has made regulatory changes that came into force on 24 April 2020.

The new regulations state:

- There is no requirement that appeal panels must be held in person. These can take place by telephone, video conference or through a paper-based appeal, where all parties can make representation in writing.
- The Panel, made up of 3 members, can continue and conclude with 2 panels members if necessary.
- A Clerk must still be present at the appeal hearing to provide legal support and guidance to the Panel and make an accurate account of proceedings.

All appeals are currently arranged virtually using the Microsoft Teams software. We would strongly recommend that you attend the hearing and, if you wish, we can also invite a friend or representative.

You must provide all the evidence that you want the Panel to consider. If some of your reasons involve for example, medical issues or a house purchase, it would be helpful if you could provide written evidence to support your case.

If you wish to give any further evidence at the hearing, you should email it to schoolappeals@norfolk.gov.uk. Please forward any information as soon as possible. If you are not able to send your additional evidence in time, then the Panel may be able to look at it if you bring it to the appeal hearing.

The appeal process is arranged as a two-stage process.

Stage 1 is where the school presents their case which explains why they are refusing to admit any further children to their school.

Stage 2 is where the parent/carer puts forward their case to explain to the panel why they believe that their child should have a place at the school.

During the COVID-19 pandemic, it has been agreed that, where there are more than six appeals for a school, Stage 1 (the school's case) will be arranged as a paper-case. You will be emailed a copy of the school's case for refusal and requested to email back any questions you may have regarding the school's case. All questions will be collated and sent to the school for a response. Once the school has responded to all the questions raised, these will be emailed to you, the panel and clerk.

A Stage 1 deliberation meeting will be arranged for the panel and clerk to meet and discuss the case and the school's responses to the questions raised. They will deliberate as to whether the governing body of the school has good reasons for not giving your child a place. They would have to show that the school has reached its intake limit and that the admission of one more child would prejudice the provision of efficient education or the efficient use of resources.

If the Panel decides that the governing body has not proven its case, and if there is only one appeal, then that appeal must be allowed.

If there is more than one appeal and the Panel decides that the governing body has not proven its case, it must then decide how many children could be admitted. The Panel will then need to allow appeals up to that number, following the school's admissions criteria. The appeals of the other parents will then be considered in the second stage.

If the Panel agrees with the governing body's case i.e. that the school is full, then the Panel goes into the second stage. This is when the Panel considers whether the details in your case are strong enough to override the grounds established by the governing body.

There may be appeals from several parents for places at the same school. As the governing body's case will usually be the same for all the appeals it will only be put to the Appeal Panel once.

Who attends the hearing?

- The Panel
- A Clerk appointed by the Chief Executive's Department of the Norfolk County Council, who takes notes of what is said and gives the Panel legal advice
- A representative from the school.
- Sometimes an observer. This may be someone who is training to be a panel member, an appeal clerk or a Children's Services Authority Officer.

Do I have to attend the meeting?

You do not have to attend to the appeal meeting as the Panel will consider your case based on what you've written in your notice of appeal. However, it is better for you to attend if possible because the Panel may have important questions to ask which could affect the result. If you are unable to attend yourself, you may wish to ask a friend or a relative to attend on your behalf.

How is the Stage 2 meeting run?

Stage 2 meetings will be scheduled to proceed directly after the deliberation meeting for Stage 1. Hearings will be held using the Microsoft Teams software. You will have three options as to how you wish your case to be heard; as a video meeting, a telephone conference call or a paper-based appeal.

The following is the normal process at the meeting:

1. You will be asked to present your case giving the reasons why it is important for your child to go to this school. This part will take about 30 minutes, although there is no time limit. If there are several parents appealing, then you will each have been given a different time to speak to the panel about your case and each case is heard in private.
2. The Governing body's presenting officer can ask questions.
3. The Panel will ask questions. (These can be asked at any time).
4. The Governing body's presenting officer can respond.

5. Parents' sum up their case. This means that you have a chance to bring together the main points that you have already made.

What happens after the appeal?

After the hearing, the Panel and Clerk meet in private to make their decisions. If there are several appeals for the same school, the panel will hear all the cases before making their decisions.

Once the decisions have been made, the clerk will let the Appeals Administrator know the results.

They will try and let you know the outcome of your appeal, by email, as soon as possible. You will also receive written confirmation of the decision. The decision letter from them will say the reasons the Panel gave for their decision.

Do I have any further right of appeal?

The decision of the panel is binding on the admissions authority, school and parents.

There is no appeal against the decision of the Appeal Panel. However, if there are significant and material changes in 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. 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.

If you believe that the appeal meeting was not properly conducted – this is called maladministration. In this case, you can complain to the Local Government & Social Care Ombudsman. This is not a right of appeal against the decision, as the Ombudsman can only investigate complaints about maladministration on the part of the appeal panel.

If you wish for details about complaining to the Ombudsman, please speak to the Appeals Administrator on (01603) 224388.

The only way to challenge a decision made by the Appeal Panel is to apply for a judicial review of the decision. If you wish to consider this course of action you should seek independent legal advice as soon as possible as normally there is a time limit.

Do you have any good tips on how best to make my appeal?

Our advice is:

- Make sure you understand how the appeal will run.
- Make notes of any questions you may have about the appeal.
- Make sure that you have looked at all the papers before the appeal.
- Decide what you would like to say when the panel invites you to give your reasons – it might be helpful to make a note of the main points. Tell the Panel all the reasons why you want a place at your preferred school. Do not expect the Panel to guess how your child might be affected; remember problems affect different children in different ways.
- Make sure that you have provided all the paperwork to support your appeal e.g. medical evidence, confirmation of your house purchase or rental agreement.

- Check out the alternative schools on offer. Find out for yourself and do not take the word of others.
- Focus on why your preferred school would be a good choice for your child and why it would be difficult for your child if they could not go to this school.
- Attend your appeal meeting if possible.

Further Information

Any further queries should be addressed direct the school.

The Department for Education have produced a booklet “Primary and Secondary School Admissions and Appeals: A Guide for Parents” which is available from www.teachernet.gov.uk/publications or by phoning 0845 6022260 and quoting reference 00160-2008BKT-EN.

Parents can contact the Advisory Centre for Education (ACE) Ltd, which is an independent national advice centre. They provide clear advice and information particularly for parents on admission appeals through a national advice line and a wide range of publications. Especially helpful is a booklet called “Appealing for a School”.

ACE can be contacted on 0300 0115 142 Monday – Friday (10.00am –1.00pm). Their website address is www.ace-ed.org.uk.

We hope that you have found this guidance note helpful.

If you would like this document in large print, audio, Braille, alternative format or in a different language please contact Children’s Services on (01603) 224388 and we will do our best to help.