

NORTH YORKSHIRE COUNTY COUNCIL

THE SCHOOL STANDARDS AND FRAMEWORK ACT 1998 SECTION 84 AND THE SCHOOL ADMISSIONS (APPEALS ARRANGEMENTS) (ENGLAND) REGULATIONS 2012

SCHOOL ADMISSION APPEALS

NOTES FOR PARENTS

These notes are for Parents/Carers who wish to appeal against a decision made by the Admission Authority to refuse their child a place at a preferred School.

There is a separate set of notes for Infant Class Size (Class Size 30) appeals.

1. THE ADMISSION APPEAL PANEL

- 1.1 Following rules established in law, North Yorkshire County Council has decided that Appeals Panels will normally consist of three people. The Appeal Panel is independent of the Admission Authority.

2. THE CLERK

- 2.1 The Clerk to the Appeal Panel will be an officer within the Appeals Team in Legal and Democratic Services of the County Council. These officers are independent of the School and the education functions of the Local Authority. The Clerk's role is to make the necessary administrative arrangements for hearings, to notify the parties of the order of proceedings in advance of the hearing; to respond to queries from appellants in advance of the hearing, or to identify the appropriate person to provide a response; to be an independent source of advice (or to seek appropriate advice) on procedure and on admissions law; to keep an accurate record of proceedings; and to provide the parties with written notification of the Panel's decision.
- 2.2 If you have any enquiries about the appeal procedure do not hesitate to contact the Appeals Team at County Hall, Northallerton on: (01609) 533385 or via email at: appeals@northyorks.gov.uk

3. LODGING YOUR ADMISSION APPEAL

- 3.1 The appeal is lodged by you sending the completed Appeal Form to the Address given at the top left hand corner of the Appeal Form by the closing date given, or by you completing the form 'on-line' which is available on the NYCC Admissions Website, where you will also find some useful guidance information about the Admission Appeal process. The Appeal Form and associated guidance notes can be found at: <https://www.northyorks.gov.uk/school-admissions-appeals> It is important you keep to the given deadline date and if that closing date presents a difficulty, contact the Appeals Team immediately. If your appeal is received after the specified date, your case may be prejudiced by it not being heard at the same time as other appeals in respect of that school, or by you being given short notice of the Hearing date.
- 3.2 You will receive written acknowledgement of receipt of your appeal, which is then forwarded to the Clerk to the Appeal Panel.

4. **BEFORE THE APPEAL HEARING**

- 4.1 The Clerk will give you at least 10 school days' notice of the date on which your appeal will be heard (unless you have appealed late). The letter will include a deadline for the submission of any further supporting evidence that was not sent with your Appeal Form initially. Any significant new information or substantial new evidence not submitted by the deadline might not be considered at your appeal hearing, if the Panel feels it has not had sufficient time to fully consider it and may ask for your hearing to be adjourned.
- 4.2 As early as possible before the date of the hearing, you will be sent a written Statement of the Admission Authority's case. This will include details of how the admission arrangements and the co-ordinated admissions scheme apply to your application, the reasons for the decision to refuse your child admission and an explanation as to how the admission of an additional child would cause 'prejudice' to the provision of efficient education, or efficient use of resources.

5. **PURPOSE OF THE APPEAL HEARING**

- 5.1 The task of the Appeal Panel is to consider the 'cases' put forward by both 'sides' (you and the Admission Authority) and come to a decision on whether to allow your appeal or not.
- 5.2 While your appeal must be submitted in writing (as must the Admission Authority's reasons for refusing your school admission request), you are given an opportunity to attend the hearing to put your appeal in your own words to the Panel, and also to hear and challenge the Admission Authority's explanation of the decision you are appealing against. If you do not wish to attend, the appeal will be decided on the written information you have provided and the written information which has been given to you by the Admission Authority. If you are unable to attend, the Appeal Panel will certainly not take your non-attendance to suggest that you are not wholehearted about your appeal. If you are uncertain about your position, please contact the Appeals Team on (01609) 533385 or via email at: appeals@northyorks.gov.uk.

6. **RELEVANT ISSUES FOR THE ADMISSION APPEAL PANEL**

- 6.1 Where the issue is your preference of school you need to say **why you want that particular school for your child and why that school and that school 'only'. can best meet your child's needs.**
- 6.2 You may raise (either in your written grounds of appeal, or in person at the appeal hearing), anything that you believe helps explain why you prefer the school you are appealing for or why the allocated school would, in your view, be unsuitable. This could, for example, include family or personal reasons, parental work commitments, social or domestic circumstances, geographical location, academic reasons or any other circumstances or reasons that you consider relevant to your child's case.
- 6.3 You do not have to send written evidence of any of the above, but it might help your case if you can.
- 6.4 ***However, if you feel you have some special social or medical reasons for your preference, the Panel will expect to see a written medical report from your child's Doctor, or a letter from a relevant professional person in support of those reasons.***

6.5 Clearly, both the Panel and the Admission Authority must have enough time to consider everything put before them. Thus, if something important is brought out for the first time at the hearing, the Panel or the Admission Authority's representative may want the hearing adjourned to be able to fully consider it. Clearly, it is in everyone's interest to avoid this if possible.

7. **AT THE APPEAL HEARING - SEE ALSO SEPARATE NOTES ON 'GROUP' APPEAL HEARINGS**

PLEASE NOTE: THE CHILD WHO IS THE SUBJECT OF THE APPEAL MUST NOT BE BROUGHT TO THE HEARING.

7.1 Your Appeal will be heard in a formal setting, but the Panel members and the officers do try to make the proceedings as informal as they can, given the circumstances. After the Chairman has introduced those present, he or she will invite in the following order:

- the representative of the Admission Authority to put the case for the decision to refuse admission.
- you and the Panel to question the Admission Authority's representative.
- you to put your case for your child's admission to your preferred school.
- the Admission Authority's representative and the Panel to question you, or comment on the points you have put forward.
- the Admission Authority's representative to sum up its case.
- you to sum up your case for your child.

The Appeal Panel Members may ask questions at any time during the hearing if they require clarification of what has been said, or if they feel they need further information to reach a decision.

7.2 The Admission Authority will provide a representative to present the case for not admitting your child and to answer detailed questions about your case and about the school. If no presenting officer attends on the day of the appeal, the Panel can decide to resolve your case by using the written evidence submitted by the Admission Authority, if it is satisfied that to do so, will not disadvantage you.

7.3 You may be represented, or accompanied by a family member, or a friend at your appeal hearing.

7.4 You are free to have legal representation if you wish, but this ought not to be necessary, as it is important to bear in mind that the hearing is not intended to be a platform for a debate on the law, or the Admission Authority's admission arrangements.

7.5 Please give the Clerk advance notice if you intend to be represented or accompanied by someone at the hearing, or if you wish to call any witnesses.

- 7.6 If you need further advice about your appeal hearing, please contact the Appeals Team, Legal and Democratic Services on (01609) 533385 or via email at: appeals@northyorks.gov.uk.
- 7.7 Your appeal will be heard in private. However, the Appeal Panel usually asks parents to attend together for the Admission Authority's case where all appeals relate to admission to the same school and year group. This is called a Group Hearing and when the Admission Authority's case has been presented, parents will then jointly have the opportunity to question the case. At the conclusion of this part of the appeal hearing, each of the parents' cases will then be heard individually in private. There is an additional set of notes covering Group Hearings.
- 7.8 When you and the Admission Authority's representative have completed your cases, and you have both withdrawn, the Panel will consider everything which has been said and placed before them and will come to a decision. If you do not attend the hearing the Admission Authority's representative will still withdraw before the Panel considers its decision.
- 7.9 The Clerk will stay with the Appeal Panel, but only to advise on law and procedure, to refer to notes taken during the course of the hearing and to record the Panel's decisions and the reasons for them. The Clerk will take no part whatsoever in the decision making process.

8. HOW THE DECISION ON YOUR APPEAL IS MADE

- 8.1 The Panel will follow the "**Two Stage**" decision making process as set out below for all appeals (except for Infant Class Size 30 appeals, for which there is a separate set of Guidance Notes)
- 8.2 The way the Panel approaches the task is as follows:

First Stage: examining the decision to refuse admission

At which the Panel must consider the following matters in relation to each child that is subject of an appeal:

- (i) Whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the Schools Admissions Code and Part 3 of the School Standards and Framework act 1998; and
 - (ii) Whether the admission arrangements were correctly and impartially applied in your child's individual case
- 8.3 The Panel then must decide whether the admission of additional children would 'prejudice' the provision of efficient education, or the efficient use of resources.
- 8.4 The Panel will uphold your appeal at the **First Stage** where:
- (i) it finds that the admission arrangements did not comply with admissions law, or had not been correctly and impartially applied, and your child would have been offered a place if the arrangements had complied, or had been correctly and impartially applied; or
 - (ii) it finds that the admission of additional children would not 'prejudice' the provision of efficient education, or efficient use of resources.

- 8.5 However, in multiple Appeals where 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 will proceed to the **Second Stage**.

The Panel will also proceed to the **Second Stage** where:

- it finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied in your child’s case; 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, your child would not have been offered a place;

and it finds that the admission of additional children would ‘prejudice’ the provision of efficient education, or efficient use of resources.

8.6 **Second Stage: Balancing the arguments**

At which the Panel exercises its discretion, balancing the degree of ‘prejudice’ to the school against your case for your child being admitted to the school, before arriving at a decision. If the Panel considers that your case outweighs the ‘prejudice’ to the school, it will uphold your appeal.

- 8.7 In multiple appeals, the Panel will not compare the individual cases when deciding whether an individual case outweighs the ‘prejudice’ to the school. However, where the Panel finds there are more cases which outweigh ‘prejudice’ than the school can admit, it will then compare the cases and uphold those with the strongest case for admission. Where a certain number of children could be admitted without causing ‘prejudice’, the Panel must uphold the appeals of at least that number of children.

- 8.8 The Appeal Panel will not make decisions in individual cases until all the appeals for the same school have been heard.

9. **CONSIDERATION OF ‘PREJUDICE’**

- 9.1 Whilst the Appeal Panel must take into account the school’s Published Admission Number (PAN), the Admission Authority must be able to demonstrate ‘prejudice’ over and above the fact that the PAN has already been reached. The Appeal Panel must not reassess the capacity of the school, but must consider the impact on the school of admitting additional children. In reaching its decision as to whether, or not, there would be ‘prejudice’, the Panel may consider the following factors:

- a) what effect an additional child’s admission would have on the school in the current and following academic years as the Year Group your child would join moves up through school;
- b) whether any changes have been made to the school’s physical accommodation, or organisation since a PAN was originally set for the relevant Year Group;
- c) the impact of the locally agreed Fair Access Protocol;

- d) the impact on the organisation of classes and the size of classes, the availability of teaching staff and the effect on children already attending the school.

10. NOTIFICATION OF THE DECISION

- 10.1 The decision of the Appeal Panel, and the reasons for it, will be sent by the Clerk, to you and the Admission Authority in writing, as soon as possible after the date of the Panels decision(s), but not later than 5 school days, unless there is a good reason. However, the Clerk to the Appeal Panel usually makes an arrangement for you to telephone the Appeals office, if you wish to ask for the decision on your appeal, prior to the written confirmation. You will be advised about the arrangements by the Clerk on the day of your hearing.
- 10.2 The decision of an Appeal Panel is binding both on you and on the Admission Authority and there is no provision for your appeal to be taken further.

11. COMPLAINTS

- 11.1 The Local Government and Social Care Ombudsman can investigate complaints about maladministration on the part of an Appeal Panel for a maintained school. The Education and Skills Funding Agency (ESFA) can investigate complaints about maladministration on the part of an Appeal Panel for an Academy. **A complaint to an Ombudsman or the ESFA is not a further appeal.** It must relate to the administration of an appeal, rather than the appeal decision. Maladministration covers issues such as failure to follow correct procedures, or failure to act independently and fairly. It does not cover the merits of decisions that only the Panel had the authority to make. Therefore, generally, the Ombudsman and the ESFA cannot consider whether the Appeal Panel was correct to uphold, or dismiss your appeal.
- 11.2 The Ombudsman and the ESFA are **NOT** able to overturn an Appeal Panel's decision but, where they find that there has been maladministration they may make recommendations for a suitable remedy. For example, they may recommend that an appeal is reheard by a different Appeal Panel.

Other things to be aware of

- The Clerk stays with the Admission Appeal Panel at all times to make sure the Panel acts legally.
- The Clerk will be taking notes throughout the appeal - these notes are not formal minutes, they are brief points of all the issues raised.
- The Clerk does NOT take part in any of the decision making process, nor does the Presenting Officer.
- The Admission Appeal Panel's decision is legally binding on both you and the Admission Authority/School – you must abide by it, as must the School.
- You can only have one Admission appeal per academic year, for each individual School, unless there is a significant, or material change of circumstances (such as a house move). There is not a limit to the number of different Schools that you can appeal for in one year.
- You should ensure that you accept a School place for your child so that s/he will not miss out on education. Accepting a place at one School does not prevent you from applying to and appealing for any other School which you would prefer your child to attend.