

# North Somerset Council

## **A Parents' guide to School Admission Appeal Hearings**

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For further information or help on  
School Admission Appeal Hearings

Please contact:

**Legal Support Team**

Post: Room 165, Town Hall. Weston-super-Mare.

Somerset. BS23 1UJ

Tel: **01275 888 321**

Email: [Legal.Support@n-somerset.gov.uk](mailto:Legal.Support@n-somerset.gov.uk)



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## Introduction

The School Standards and Framework Act (SSFA) 1998, (as amended) and the School Admission and School Admission Appeals Codes produced by the Department of Education (D of E), govern admission appeals.

The SSFA 1998 requires all Local Authorities (LAs) to make arrangements enabling parents (and in some circumstances children) to appeal against the decision to refuse admission to a preferred school.

The governing body of a Foundation or Voluntary Aided school is also required to make the same arrangements. Voluntary aided schools are generally Catholic or some Church of England schools.

Academy Schools are state-funded, non-fee-paying independent schools set up under a funding agreement between the Secretary of State and the proprietor of an Academy (Academy Trust). Academies are required by their funding agreements to comply with the code and the law relating to admissions, although the Secretary of State has the power to vary this requirement if there is a demonstrable need.

Throughout this guidance, the term admitting authority is used and this means the LA, the governing body of the school or the Academy Trust, whichever is appropriate for your appeal.

This booklet will help you to –

- Understand the process;
- Know what will happen at an appeal hearing
- Understand how Appeals Panel make their decisions.

## The Process

### Why appeal?

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

When you applied for a school place for your child you will have listed up to three preferences. The School Standards and Framework Act 1998 (as amended) allows you to express a preference regarding the school(s) you would like your child to attend. However, you do not have an absolute right to choose a place at your preferred school(s) because the law states that the admitting authority 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”.

Examples of prejudice may include a negative impact on the education being delivered, a lack of space to accommodate an extra child, the availability of desks, computers or other specialist equipment, health and safety issues for activity based or scientific subjects, and other issues.

If your child has not been offered a place at the school of your preference you have the right to appeal against the 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 Independent Appeal Panel, whose decision is made independently of the LA or admitting authority. The appeal hearing is your chance to put your side of the argument – to have your say.

#### 2. When can I appeal?

An appeal can be made when you have applied for a place at your preferred school or schools, and you have received a letter advising that the application was unsuccessful. The appeal will need to be made within 20 school days from the date of the letter, and generally heard within 30 school days of receiving your request for an appeal.

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

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

You do not have a right to a second appeal for the same school in the same academic year unless there has been a significant change in circumstances. (See question 42 for more details)

### Who is at the appeal hearing?

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

If your child has a statement of Special Educational Needs and you wish to appeal against the school named in the statement, or the fact that no school has been named, your appeal must be made to the First Tier Tribunal (Special Educational Needs and Disability) and not through the Council's normal admission process. For further information, please contact the named Special Needs Officer dealing with your case.

#### 5. Who will be at the Appeal Hearing?

- You, and if you wish you may bring your partner, friend, supporter or representative (see Question 13);
- The Appeal Panel (three members)
- The Clerk and/or Solicitor to the Appeal Panel

- A representative of the admitting authority, and possibly someone from the school such as the Head Teacher or Deputy Head Teacher.

Sometimes there is an observer. This may be someone who is training to be an Appeal Panel member, an appeal Clerk, or a presenting officer.

## 6. Will the appeal be heard in private?

Yes – all personal aspects are always heard privately. North Somerset Independent Appeals Service does however operate a system of grouped appeals if there is more than one appeal for the same year group in the same school. In these circumstances, the representative from the admitting authority will present the case as to why the children could not be admitted to all the parents at the same time. This part of the hearing relates solely to facts and figures about the school and gives parents the opportunity to ask questions and hear the answers to other queries that may be raised. It ensures that everyone, both parents and the Panel, have access to the same information (explained further in Question 38).

However, when you present your individual case it will be heard without any other parents in the room. Any observers will also leave if you wish.

With the introduction of the Government's

Regulations implemented with the Coronavirus Act 2020 we are now allowed to hold Appeal Hearings face to face, remotely/virtually on MS Teams, or a mixture of both which is called a Hybrid hearing whereby the Panel Members will be all present in a room, and the other parties will be remote on MS Teams. You, as parents, are very welcome to present your appeal in person. Appeals are usually heard at The Town Hall, Walliscote Road, Weston-super-Mare. BS22 1NJ. Please let us know in advance if you would like to present your appeal in person.

## About the appeal panel

### 7. Who are the Appeal Panel members?

The Appeal Panel will have three members and:

- One member must have experience in education or be the parent of a registered pupil at another school.
- One member must be a lay person, that is, someone without personal experience in the management of any school or the provision of education in any school (except as a school governor or in any voluntary capacity).
- The third panel member will be from either of the above two categories.

No member of the Appeal Panel will have any connection with your preferred school or offered school

The decision of the Appeal Panel is made independently of the LA, the governing body or the Academy Trust, whichever applies in your case.

### 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;
- Hear complaints or objections on wider aspects of the admission policy and practice, such as changes to the admission number or designated area of a particular school;
- Order the admitting authority to change your position on the waiting list for the school.

It does however consider whether the admission arrangements comply with legislation and the mandatory requirements of the School Admissions Code and whether they were properly implemented. If the Panel finds that your child would have been offered a place if they had been properly applied, your appeal will normally be allowed.

## Other people involved in the appeal hearing

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

The Clerk (or Solicitor acting as a Clerk) is present to ensure it is conducted fairly. The Clerk is not a member of the Panel and does not have any say in its decision, but is there to:

- Ensure that the basis procedure is complied with and deal with enquiries you may have;
- Ensure the relevant facts are established;
- Make sure each party is heard in turn;
- Be an independent source of advice on procedures;
- Record the proceedings, decisions and reasons;
- After the appeal, notify those concerned of the Appeal Panel's decision.

### 10. What is the role of the admitting authority representative at the appeal hearing?

The admitting authority representative is **not** involved with the decision-making process of the appeal hearing in any way.

The representative 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 admitting authority at the appeal hearing and answer any questions raised by you, any other parents and the Appeal Panel members.

In the same way that you can ask the presenting officer asks questions about the case, to ensure a fair hearing, the officer may ask you questions about your reasons for appealing.

## Attending the appeal hearing

### 11. Should I attend the appeal hearing?

Yes. Whilst it is not compulsory, 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 choice.

The law gives you the opportunity to put your case to an Appeal Panel, whose decision is made independently of the school or the LA.

The appeal hearing is your chance to put your side of the argument both in writing and in person.

Appeal hearings can be heard remotely, hybrid or face to face.

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

You may have an interpreter or signer at your appeal hearing. You may bring your own interpreter/signer or if you would like one provided for you, please ask the Clerk/Solicitor well before the appeal hearing, giving at least two weeks' notice if possible. This service is free of charge.

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

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

A person that attends the hearing with you could be a social worker, or learning mentor, providing this does not lead to a conflict of interest.

However, the school appealed for must not support an individual appeal, either in person or in writing, because of possible conflicts of interest and the possibility of unfairness to other appellants.

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 we can. However, this is a matter for

you to decide, but the clerk must be notified if you choose to take this course of action. It should be noted that any legal costs incurred by you are not recoverable from the Council.

You may also bring witnesses to attend appeal hearings. Details of who is attending needs to be given in advance.

If witnesses do attend, it is for the Appeal Panel to decide whether it is appropriate for them to give evidence and whether they should remain for the rest of the hearing.

#### 14. Can I bring my son/daughter to the appeal hearing?

This is an opportunity for you to hear and question the admitting authority's case and to put across your reasons as to why you want your child to attend that particular school. You may feel that bringing your child could be a distraction for yourself and distressing for them, however, it is your decision as to whether your child attends or not.

Please note there are no child-care facilities in any of the venues where appeals are held.

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

If at all possible, you should attend. Where you have stated that you wish to attend and then find that you cannot do so for a genuine reason, please contact the Clerk to the Appeal Panel as soon as possible. If you are aware that you are likely to be late for the start of the hearing, please inform the Clerk as soon as possible.

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.

### No longer wish to appeal

#### 16. Can I withdraw my appeal?

Yes. You can withdraw your appeal before (and during) the appeal hearing by contacting the Clerk to the Appeals Panel or the School Admissions and Transport Team.

### Preparing for the appeal

#### 17. Will I have an information about the admitting authority's case before the appeal hearing?

Normally, within a reasonable time before the appeal hearing you will be sent a full set of papers, which will include:

- The case for the admitting authority explaining why your child could not be allocated a place at your preferred school and, which should, for new intake applications only, also normally show how places at the school were allocated apply to your application, together with any supporting documentation.
- Relevant correspondence between yourself and the admitting authority. This may not include all the correspondence so if there are certain letters or documents that you wish the Appeal Panel to see, it is best to submit another copy with your appeal or to contact the Clerk to make sure that the correct papers are included.
- Your appeal form and/or letter
- Papers you have supplied to support your grounds for appeal

These documents will also be sent to the Appeal Panel, the admitting authority and/or the LA and the Clerk at the same time.

### 18. What should I do if I think the admitting authority has made a mistake in applying the over-subscription criteria of the admission arrangements?

**You** are responsible for ensuring that you challenge what the admitting authority has or has not done.

If you think the admitting authority has not applied the over-subscription criteria appropriately or placed your child in the wrong category, you should query this before the appeal hearing with the admitting authority and also put in writing as grounds for your appeal. It would be helpful if you could raise it with the admitting authority before the appeal hearing so that officers can check the facts. If it is first raised at the hearing, it may be necessary to adjourn the appeal until the issues have been resolved.

### 19. How can I prepare for the appeal hearing?

**You** are responsible for preparing and 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.

Before the appeals hearing you are advised to:

- Familiarise yourself with the procedures, that is the information contained in this booklet, particularly Questions 27 and 36, and the School Admission Appeals Code (this can be found on the Department for Education website, see Appendix 4 – useful addresses).
- Make a note of any questions you may have about your appeal.
- Make sure you have looked at the admitting authority's case before the appeal hearing.
- Make a note of any questions you would like to ask the admitting authority's presenting officer about its 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 submitted any paperwork to support your appeal such as, if relevant, a doctor's letter, confirmation of completion of your house purchase or a rental agreement, or any other documentation. If you are unable to obtain and submit all the evidence 8 working days before the hearing, please contact the Clerk or Solicitor to the Appeals Panel as a matter of urgency as it is possible that evidence not submitted by this time might not be considered at the appeal.

On the day of the appeal hearing, bring with you to the appeal:

- The set of case papers that were sent to you the week before the appeal.
- Any notes and/or questions you may have.
- This guidance.

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

In the first instance, please contact the Legal Support Team who can help you with any queries or concerns you have. They may be contacted on **01275 888 321**.

If you would like further advice or information, the Advisory Centre for Education (ACE) is an independent, national education advice center,

which provides information on the education system. ACE operates a national advice line and produces a wide range of publications. Especially helpful is the page on their website about appealing for school places. (See Appendix 4 – Useful addresses).

## 21. 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, that is the reasons why you particularly want your child admitted to the preferred school.

Do not think “Oh that’s not really important” – make the most of your opportunity to talk to the panel.

It is especially important to tell the Panel of any difficult or sensitive issue so the panel members are fully aware of the whole situation and can make a properly informed decision. The hearing is totally confidential and nothing you say will go outside the room. The Clerk (or Solicitor to the Appeals Panel) want to be certain that you do not leave the appeal thinking things have been left unsaid.

The members of the Appeal Panel have to make their decision based on the information they have been given. They will however have read all the paperwork you have sent in, it is best to expand on that rather than read out the information that they already have in front of them.

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

The Appeal Panel needs as much supporting evidence about your reasons for appealing as you can provide

However, if it is an infant class appeal please also read Question 34.

- If your case is based on medical or social grounds you should, wherever possible, provide written evidence from the Consultant, Doctor or other professional, such as a Social Worker, to support this.
- If your case is based on a house move you should provide evidence of the completion of your house purchase, or exchange of contract, 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 feel will support your case.

Note however that the school being appealed for may not support individual appeals, either in writing or in person, because of possible conflicts of interest and the possibility of unfairness to other appellants.

## 23. 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 alone are responsible for making sure that the Appeal Panel has any written supporting evidence at the appeal hearing.

## 24. When should I provide my supporting evidence?

Any supporting evidence should be submitted with the appeals form. If you wish to submit other written information or documents after you have returned the appeal form, then you must ensure that the clerk receives it at least 8 working days before the appeal hearing. This is to allow time for the admitting authority to consider and respond to the fresh information and for the Appeal Panel to give it proper consideration. Any evidence not submitted by this time might not be considered at the appeal.

**Please note:** If you do not wish to attend the hearing, your appeal will be considered on the written evidence that you provided with your appeal form.

This also applies if you do not arrive for your hearing, having previously indicated that you wish to attend. It is therefore important that you make sure the Appeal Panel has all the letters and documents you wish it to consider. The Clerk will return any documents, which you ask to be returned to you, with the decision letter.

## The appeal hearing

### 25. How long does an appeal hearing take?

It is difficult to say exactly.

- If you are the only person appealing, the whole appeal will take about 45 minutes.
- If there is more than one appeal (as explained in Questions 6 and 38), you are given a time for the admitting authority's presentation and if there are a lot of appeals, a second time for your personal case. The first part, which is when you and the other parents are able to question the admitting authority's representative about its case, can take anything from 20 minutes to 1 ½ hours, depending on the number of parents

attending and the complexity of the points raised.

The first part of a group hearing can take anything from 20 minutes to 1 ½ hours, the second part of the hearing normally takes about 20 minutes.

For all appeals, you are advised to arrive at least 15 minutes before the first time shown on your letter in case you wish to speak to the Clerk or there are any last minute queries. However, if appeals heard earlier in the day have overrun, it is also possible that there will be a delay in the start of your hearing.

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

**Yes.** The Appeal Panel may adjourn the appeal hearing to later in the same day or to another day if it considers it necessary.

### 27. What will happen at the appeal hearing?

The procedure for hearing an appeal will depend on whether it is an "infant class size" appeal or not, as the matters for consideration are different.

Please see Questions 28 to 35 regarding "infant class size" appeals, which can only relate to the

Reception Year, Year 1, Year 2, and possibly Year 3 and Question 36 for other appeals.

Appeal hearings are based on fairness and made as informal as possible to ensure that both you and the admitting authority's representative feel comfortable and have the same opportunity to speak.

All Appeal Panels have to take into account parental preference, the reasons for particular preference and the published admission arrangements for the school.

## Infant class appeals

### 28. 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.

### 29. Which year groups are infant classes?

Normally infant classes are the Reception Year and Year 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.

### 30. 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**. The exceptions are:

- a. children admitted outside the normal admissions round with statements of special educational needs specifying a school;
- b. looked after children admitted outside the normal admissions round;
- c. children admitted, after initial allocation of places, because of a procedural error made by the admission authority or LA in the original application process;
- d. children admitted after an independent Appeals Panel upholds an appeal;
- e. children who move into the area outside the normal admissions round for whom there is no other available school within a reasonable distance;
- f. children of UK service personnel admitted outside the normal admissions round;

- g. children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil;
- h. children with special educational needs who are normally taught in a Special Educational Needs Unit attached to the school, or registered at a special school, who attend some infant classes within the mainstream school.

An admitting authority must normally refuse to admit a child to a school if it judged that it would breach the infant class size limit and there were no measures it could take to avoid this without prejudicing the provision of efficient education and the efficient use of resources.

- The Transport Team aim to limit travel in the region of 45 minutes on town centre routes and 60 minutes on rural routes, which would be considered a “reasonable distance”.
- UK Service Personnel are considered as employed within a branch of the armed forces – confirmation of the move is required from MOD, FCO or GCHQ.

### 31. What is meant by “prejudice”?

Prejudice in this instance means any action that would impact on the standard of education in the school. If the school had to build an extra classroom or employ an extra teacher in order to keep class numbers within the statutory limit of 30 children, it would obviously have a cost and mean there was less money available to enhance the learning of children already in the school.

### 32. Are all appeals for infant classes going to be “class size”?

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

- The school’s Admission Number;
- The number in the class or classes; and
- Whether or not the pupils are taught as single year groups or mixed with other year groups.

Here are two examples:

1. If the Admission Number is 60 and the school is organised to give 2 classes of 30 Reception Year pupils, then it will immediately be a “class size” appeal.

2. If the Admission Number is 15 or 45 the appeal maybe either an ICS or a two-stage appeal, and both the Admission Authority, in refusing the application, and the Appeal Panel will need to consider the cases accordingly.

**Please note:** This does not mean that an Appeal Panel would definitely allow appeals just because the number has not reached the infant class size limit of 30. For example some small village schools may only be able to take a small number of pupils due to the physical limitations within the school, such as small classrooms, limited play areas etc. In these circumstances the format for the appeal will follow the same procedure as for normal two-stage appeals (see Question 36).

### 33. How will I know if my infant class appeal is “class size”?

You should be told what type of appeal yours will be in the first notification letter informing you of the date and time of the appeal. In any event, when the admitting authority’s case papers are sent, normally at least five working days before the appeal hearing, they should state clearly what type of appeal it is. You should also be told in the refusal letter on what grounds your child has been refused a place i.e. on Class Size or Prejudice, or maybe both if the Infant Class Size limit will be reached in future years.

- If the admitting authority’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 situations: “class size” where the panel has limited scope to allow appeals and two-stage where the panel has greater discretion.

### 34. How does the Appeal Panel decide to allow an infant “class size” appeal?

The Appeal Panel **may** only allow a “class size” appeal where:

- A** it finds that the admission of additional children would not breach the infant class size limit;

This looks at whether the infant class size limit of 30 children with a single qualified teacher would in fact be exceeded if additional children were admitted. It does not mean that your appeal would automatically be allowed if there were not 30 children in the class in question, as the Panel will also consider whether prejudice would arise in the future (Years 1 & 2).

- B** it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied and the

child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or

This looks at whether the admitting authority’s admission arrangements met the mandatory provisions of the School Admissions Code and the School Standards and Framework Act 1998 and other legislation. If arrangements did not follow legal requirements, then your appeal may succeed – but only if your child would have got a place at the school if the law had been applied properly.

- C** it decides that the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

This looks at whether the admitting authority acted unreasonably. The law defines “unreasonable” very carefully. The decision to refuse a place must not be irrational or perverse given the circumstances of the case. To determine what was “unreasonable”, the Panel will need to be satisfied that the decision was “perverse in the light of the admission arrangements”. Put more simply, the decision must appear illogical, irrational or wildly ridiculous when looking at the facts of the case.

When considering A, B or C, the Panel will review the decision made by the admitting authority. Normally it will only consider the information and material available to the admitting authority at the time the decision was made to refuse a place at the school, or information that would have been available if the admitting authority had acted reasonably. The Panel may allow you to submit fresh information so you can show the basis for your claim that the class size limit would not be exceeded if your child was admitted (A), or that the admission arrangements had not been properly implemented and that they were not lawful (B) or to show what your circumstances were at the time the decision was made in order to support your claim that no reasonable authority would have made that decision (C).

If your appeal is allowed, the decision is binding on the admitting authority, and the school, and your son/daughter must be admitted to the school.

### 35. What is the procedure for an “infant class size” appeal?

- The Chairperson welcomes everyone, introduces the Appeal Panel and outlines the procedure to be followed.

- The admitting authority representative presents the case as to why the child or children were refused admission
- Questions – if you have any questions about the admitting authority’s case you should ask them at this point of the appeal hearing. The panel may also ask questions.
- Summing up by the admitting authority representative.
- Chairperson asks admitting authority representative if they have said everything they wish to.

#### Parent’s case – no other parents in the hearing:

- Your present your case on the basis that:
  - The class size limit of 30 children would not be exceeded and there would not be any prejudice caused if your child was admitted; or
  - A mistake has been made in your case which meant that your child did not get a place at the school; or
  - When considering your application, the admitting authority ignored relevant information or the decision was irrational in the circumstances of your case.

- Questions – the Panel and the admitting authority’s representative have the opportunity to ask questions to clarify issues about your case.
- Summing up by you
- Chairperson asks you if you have said everything you wish to.

All parties leave

## Other primary school and secondary school appeals

### 36. What is the procedure for other primary and secondary school appeals?

Appeals that are not based on infant class size follow a two-stage process.

The first stage is a factual stage when the Panel first of all considers whether the school’s published admission arrangements comply with the mandatory requirements of the School Admission Code and the School Standards and Framework Act 1998 and whether they were properly implemented. The Panel will then determine whether they were properly implemented and whether prejudice would arise if another child was admitted to the school.

If it is clear that your child would have been offered a place at the school if the admission arrangements had been lawfully or correctly implemented AND/OR that no prejudice would be caused if another child was admitted, the panel will uphold your appeal at this stage.

Otherwise, the appeal moves on the second stage, known as the balancing stage. You will be asked to present your case for wanting your child to be admitted to the school and the Panel will then have to balance your reasons against the prejudice that would be caused to the school if your child were to be admitted.

**Stage 1  
(Factual stage)**

- The Chairperson welcomes everyone, introduces the Appeal Panel and outline the procedure to be followed.
- The representative from the admitting authority presents the case as to why the child or children were refused admission.
- Questions – if you have questions about the admitting authority’s case you should ask them at this point of the appeal hearing. The panel may also ask questions.
- Summing up by the admitting authority representative.

- Chairperson asks admitting authority representative if they have said everything you wish to.

**Stage 2  
(Balancing stage – no other parents in the hearing)**

- You present your case
- Questions – the Panel and the admitting authority’s representative have the opportunity to ask you questions to clarify issues about your case.
- Chairperson confirms your reasons for appealing
- Summing up by you
- Chairperson asks you if you have said everything you wish to.

All parties leave.

**37. How does the Appeal Panel decide whether to allow if you have a two-stage appeal?**

The Panel must decide whether the school’s admission arrangements were lawful and properly applied and whether ‘prejudice’ would arise if your child were to be admitted.

It is for the admitting authority to show that the admission of another child would cause ‘prejudice’. In deciding this, the Panel will consider

a number of factors, including the school’s published Admission Number. Examples of prejudice may include a negative impact on the education being delivered, a lack of space to accommodate an extra child, the availability of desks, computers or other specialist equipment and health and safety issues for activity based or science subjects and other issues.

If the Panel finds that the admitting authority has not proved its case and yours is the only appeal, then your appeal will be allowed and the hearing will finish at this point.

If the Panel decides that the admitting authority has proved its case and the appeal has moved to the second stage, then the Panel will consider your reasons for wanting your child to go to that particular school and will balance these against the effect 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.
- If it decides that your case is not stronger than the case for the school, it will refuse your appeal.

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

## Multiple appeals

### 38. What are multiple appeals?

There are times when Appeal Panels hear appeals from a number of parents with children in the same year group who all wish their child to attend the same school. This generally happens before the September intake into Reception and Year 7 classes, but can occur at any time during the year. It is important for all these appeals to be heard and decided by the same panel at the same time. The decision on any individual case will not then be made until all the parents have been involved in both stages of the process, or an injustice could result.

For these appeals, all the parents will be invited to attend the first part of the hearing at the same time. The admitting authority representative will present the case for the school and everyone (that is the Panel members and parents) will have the opportunity to ask questions. This ensures that all parents and the Panel members will have heard the same information from the admitting authority and the answers to all the questions put by parents and the Panel.

You will also be given a second time slot to attend when you will be able to present your own individual case. No other parents will be present in the hearing at this stage.

Only after the Panel has heard the cases of all parents appealing for the school will it make its decisions.

With multiple appeals, there are occasions when what starts as a two-stage appeals hearing turns into a 'class-size' hearing. This is quite rare but if there is a likelihood of this happening, you will be advised in advance of the hearing so that you can prepare your case for both situations.

## Appeals relating to disability

### 39. What if my appeal relates to my child's disabilities?

If your case is that your child has been refused admission for a reason related to his/her disability the Appeal Panel will also have regard to the Equality and Human Rights Commission's Code of Practice for School when considering your appeal. Along with its usual deliberations, it must also consider whether your child has been discriminated against for a reason that relates to their disability.

## The appeal panel's decision

### 40. When does the Appeal Panel make its decision?

In individual appeals the decision is made on the day of the hearing.

For multiple appeals, where there is more than one appeal for the same year group at the same school, the decisions will be made when the Panel has heard all the appeals. This may take anything from one day to a week, depending on the number of appeals to be heard (see Question 38).

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

The Clerk to the Appeal Panel will normally ask you to telephone later in the day, or the next morning, so that she can tell you whether or not the appeal was successful.

The Clerk will also inform you of the Panel's decision in a letter which will set out the reasons for the decision. This will normally be sent within five school days of the appeal hearing, but if it is during the school holidays the letter will be sent usually within one working week.

## After the appeal

### 42. If my appeal is refused can I appeal again?

No. There is no right of appeal against the decision of the Appeal Panel.

You may apply for a place at the same school for a later academic year and you would have a right of appeal if that application was refused.

However, you do not have the right to a second appeal in respect of the same school in the same academic year, unless the admitting authority has accepted a further application from you because there has been a significant and material change in circumstances of the school, your child or yourself, such as medical reasons or you have moved house a significant distance. If this application is also refused, you then have the right to a fresh appeal.

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

If your appeal was for an LA maintained school and you think that proper procedures have not been followed, you can ask the Local Government Ombudsman (LGO) to investigate. This is not a right of appeal against the Panel's decision as the LGO can only investigate written complaints

about maladministration on the part of the Appeal Panel.

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 followed correct procedures or has not acted independently. The LGO would not criticise the decision of the Panel, which fairly took into account all the evidence presented by both the parents and the admitting authority, just because the parents disagreed with the decision reached.

If, following investigation, the LGO finds there has been maladministration that might have caused you an injustice, one of the remedies maybe to ask for another appeal to be held with different Appeal Panel members.

If your appeal was for an academy school, then any complaint must be made to the Secretary of State.

Please see Appendix 4 – useful addresses for the contact details for both the LGO and the Department of Education.

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

An Appeal Panel's decision can only be overturned by the courts where either you or the admitting authority is successful in applying for a judicial review of that decision. If any party to the appeal wishes to consider this course of action they should take independent legal advice as soon as possible as there is normally a time limit.

### 45. 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 another school, or several other schools, and if these cannot admit more pupils, you then have the right of appeal for a place at each of these schools.

You should contact the School Admissions and Transport Team as soon as possible as you have a legal duty to have your child educated.

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

**No.** Your child's position on the waiting list is not affected by appealing.

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

If you have informed the admission authority that you wish to remain on the waiting list, should a place subsequently become available and your child is top of the list s/he will be offered a place at the school.

However, please remember that waiting lists are constantly changing and that your child's place may move up or down. Waiting lists are kept strictly in accordance with the over-subscription criteria and if, for example, another child moves in the school's designated area and is closer to the school than anyone else on the list, that child may be placed higher up the waiting list and everyone else moves down one place.

## Appendices

### Appendix 1

#### Useful addresses

Enquiries about this guidance and the appeals process in North Somerset should be addressed to:

##### Legal Support Team

Room 165, Town Hall, Walliscote Grove Road,  
Weston-super-Mare. BS23 1UJ

01275 888 321

[Legal.Support@n-somerset.gov.uk](mailto:Legal.Support@n-somerset.gov.uk)

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

##### School Admission and Transport Team

North Somerset Council, Town Hall, Walliscote Grove  
Road, Weston-super-Mare, BS23 1UJ

01275 884 078 or 01275 884 014

[www.n-somerset.gov.uk/admissions](http://www.n-somerset.gov.uk/admissions)

[SchoolAdmissions.Officer@n-somerset.gov.uk](mailto:SchoolAdmissions.Officer@n-somerset.gov.uk)

#### Other useful addresses and information

##### Advisory Centre for Education (ACE)

ACE Education Advice & ACE Education Training  
72, Durnsford Road, London

0300 0115 142

[http://www.ace-ed.org.uk/  
enquiries@ace-ed.org.uk](http://www.ace-ed.org.uk/enquiries@ace-ed.org.uk)

##### Department of Education

General enquiries: 0370 000 2288

<http://www.education.gov.uk/>

- School Admission Appeals Code PDF document:  
[https://www.education.gov.uk/publications/  
standard/Choosingaschool/Page1/DFE-00014-  
2012](https://www.education.gov.uk/publications/standard/Choosingaschool/Page1/DFE-00014-2012)
- The School Admissions – Appeals Arrangements –  
England – Regulations 2012 PDF document:  
[https://www.education.gov.uk/publications/  
standard/Choosingaschool/Page1/DFE-00014-  
2012](https://www.education.gov.uk/publications/standard/Choosingaschool/Page1/DFE-00014-2012)

##### Equality Advisory Support Service (EASS)

More London, Riverside, Tooley Street,  
London. SE1 2RG

020 3117 0235 (helpline) • 08457 622 633

[www.drc-Governing Body.org](http://www.drc-Governing Body.org)  
[enquiry@drc-Governing Body.org](mailto:enquiry@drc-Governing Body.org)

##### AJTC – Administrative Justice & Tribunals Council

Administrative Justice and Tribunals Council  
81 Chancery Lane  
London. WC2A 1BQ

020 7855 5200

<http://ajtc.justice.gov.uk/index.htm>  
[enquiries@ajtc.gsi.gov.uk](mailto:enquiries@ajtc.gsi.gov.uk)

- AJTC Best Practice Guide on Admissions Appeals:  
[http://ajtc.justice.gov.uk/docs/Best\\_Practice\\_  
Guidance\\_school\\_admission\\_appeals\\_V3\\_  
\(04.10.12\).pdf](http://ajtc.justice.gov.uk/docs/Best_Practice_Guidance_school_admission_appeals_V3_(04.10.12).pdf)

Written and printed by Sara Saunders, Legal Solicitor for North Somerset Independent School Appeals Service.

This publication is available in large print, Braille or audio formats on request.

Help is also available for people who require council information in languages other than English.

For all enquiries please contact Legal Support  
[Legal.support@n-somerset.gov.uk](mailto:Legal.support@n-somerset.gov.uk)