

# Best Practice Guidance on School Admission Appeals

OCTOBER 2012

**National Association of  
School Appeals Clerks**

This guidance has been produced by the Administrative Justice and Tribunals Council (AJTC) in association with representatives of the National Association of School Appeals Clerks. The AJTC is an independent statutory body whose remit includes keeping under review the operation of the administrative justice system and listed tribunals, including admission appeal panels in England under sections 94 and 95 of the Schools Standards and Framework Act 1998. It aims to provide some helpful best practice guidance to school admission authorities, school admission appeal panels, panel clerks and appellants. Whilst having no statutory basis it is intended to supplement the guidance contained in the School Admissions Appeals Code, which came into force on 1 February 2012.

## 1) Independence and impartiality

### Panel members:

- **Must not**<sup>1</sup> have any vested interest in the outcome of an appeal or any association with the schools in question.
- Should have no connection with any of the parties or individuals involved in the case.
- **Must** declare any conflict of interest if at any stage they become aware that they know any of the parties or individuals involved in the admissions process.
- **Must** be objective and open-minded.
- **Must** conduct themselves in a manner that establishes and maintains the independence and authority of the panel.

## 2) Role of the panel

### Panel members:

- **Must** have a clear understanding of the legal framework, powers and procedures relating to hearings.
- Should be aware of and respect diversity in all its forms and be able to apply this at hearings as well as in their decision-making.
- Should prepare well for hearings so that they have a full appreciation of the facts of each case, including identifying in advance any issues that need to be clarified and/or any conflicting evidence.
- Should be able to identify when they require specific legal advice.

- Should test the evidence fully by effective questioning, treating each party equally and impartially, to clarify all relevant issues.
- Should enable the parties to participate fully in hearings by communicating effectively to eliminate or reduce, so far as is practicable, potential difficulties for the parties.

## 3) Role of the clerk

- An **independent** clerk **must** be appointed in order to constitute and assist the panel and to ensure that its independence and impartiality (both actual and perceived), are not compromised in any way.
- The criteria for the independence and impartiality of the panel apply equally to the clerk.
- The clerk's role is to carry out the following functions:
  - The administrative functions as set out in the statutory Code.
  - Ensure that panel members have received mandatory training.
  - Provide the main point of contact between the parties and the panel.
  - Provide independent advice on the Code, legislation and procedures.
  - Ensure the panel is not left alone with any of the parties.
  - Provide assistance and information to all the parties to the appeal before, during and after the hearing.

<sup>1</sup> **Must/Must not** – mandatory requirements

- **Must** keep an accurate and full record of the proceedings.
- Deal with any post-decision complaints and challenges in the courts.

#### 4) The appeal hearing

##### The Panel and/or the Chair

- The panel should hold a pre-meeting to discuss the issues already identified by individual panel members and determine a strategy for ensuring that those issues are clarified in the course of the hearing.
- The Chair ensures that the parties present understand the panel's role, the order of the hearing and how decisions will be made. The Chair may choose to use a prepared script as an aide-memoire.
- The Chair manages the hearing in a manner that enables full and proper participation by the parties and ensures that any witnesses respond to questions only.
- The Chair ensures that each of the parties has sufficient time to put their case and answer questions.
- The panel ensures that, if one of the parties does not attend, the case is properly considered in accordance with the requirements of natural justice and the established procedures for hearing cases.
- If the panel considers it is unable to reach a decision on the basis of the written evidence, it should consider adjourning the hearing to a later date to enable the absent party to attend.
- The Chair deals efficiently and effectively with inappropriate conduct.
- The Chair maintains effective control of the proceedings, drawing a proper balance between formality and informality.

- Where relevant and necessary, the panel seeks legal and procedural advice from the clerk.

#### 5) The decision-making process

##### The Panel and/or the Chair

- Establishes a structured decision-making process.
- Identifies the key facts to be considered.
- Properly weighs the sufficiency and quality of evidence.
- The Chair ensures the participation of all panel members.
- Each member arrives at a reasoned decision by applying the legislation to the relevant facts of the evidence.
- When hearing multiple appeals for the same school and year group, appellants **must** be made aware that no decisions can be taken until all appeals have been heard – it is good practice for appellants to be given an indication of when parents can expect to hear the outcome of their appeal.
- The Chair ensures that a clear and final decision is reached on each issue and that the decision and reasons are agreed, recorded and notified in writing to the parties without unnecessary delay.

#### 6) Infant class size appeals

- In order to manage parental expectations, admission authorities **must** provide parents with a full and clear explanation, in plain English, of the limited grounds appeal panels are able to consider in order to uphold an infant class-size appeal.
- In some infant class size appeals the admission authority can argue infant class size prejudice would arise in subsequent years by the admission of an additional child. Panels **must** consider the reasonableness of any decision to admit a child that would cause a school to breach the statutory infant class size limit in the future.

## 7) Information and guidance for parents

- It is good practice for local guidance and information to be provided for parents in:  
**a)** deciding whether or not to appeal;  
**b)** understanding the appeal process and how decisions are made.
- Admission authorities should provide an explanation of who can attend an appeal hearing and what support parents can have at a hearing.
- Parents should be advised that it is in their best interest to attend a hearing in person to ensure the appeal panel is fully aware of all the facts of their case before it makes its decision.
- Parents should be advised that they **must** set out the grounds (reasons) for the appeal at the time it is lodged. Simply stating “*I wish to appeal*” will not suffice. If such an appeal is received parents must be invited to provide some reasons.
- Local guidance and information should be published on the local authority’s website and all schools’ websites so it is widely available to parents.
- Admission authorities **must**, comply with a parent’s reasonable request for information in connection with an appeal to the independent panel in advance of a hearing.

## 8) Training for panel members and clerks

- All panel members and clerks **must** receive prescribed training in accordance with the Admission Appeals Code before being allowed to hear cases.
- Admission authorities, particularly those schools which are responsible for their own admission arrangements, should consider ‘pooling’ their training arrangements in order to reduce administrative and resource burdens.

## 9) General points of good practice

- The statutory Code states that the panel **must** consist of a Chair and at least two other panel members from the specified categories. Best practice recommends that panels should normally comprise three members as panels of more than three could be intimidating to some parents.
- It is **not** good practice for any member of the school’s staff, and particularly the Head teacher, to be involved with any aspect of the appeals arrangements or appointing of panel members.
- Before the hearing parties **must** be asked if they have any special requirements that need to be taken into account, for example, the provision of an interpreter for parents whose first language is not English, or an induction loop system or signer for deaf parents.
- Hearings should ideally take place in a neutral venue, which is accessible by public transport, has good access for people with disabilities and affords privacy to the parties.
- If appeals are heard in a school they should be held in accommodation away from the main school activity so as to afford an acceptable degree of privacy and quiet for the panel and the parties.
- Hearing venues should have access to toilets and refreshments for the parties and the panel.
- In the interests of openness, fairness and transparency requests for copies of the clerk’s notes of a hearing should normally be considered favourably, unless data protection issues arise, in which case some parts of the notes may be redacted.
- Panels **must** act in a way which promotes the aims of the Equality Act 2010 to reduce inequality.