



## **Academy School Appeals**

**Information for Parents  
for appeals being heard  
during the Coronavirus restrictions**

**Published – September 2021**



**DIOCESAN EDUCATION SERVICE**

Archdiocese of Birmingham Registered Charity No 234216

*Making Christ Known Today*

**When a child is refused admission to an Academy school**, parents/carers may appeal against the decision. A student who has been refused a place in the Sixth-form may appeal as well as the parent/carer. The letter of refusal will state a deadline for appeals (at least 28 calendar days) but late appeals will be accepted. Your appeal hearing will be arranged as soon as is reasonably practicable. The school will be able to give you an indication of the expected timescale but this will be dependent upon the availability of and independent appeal clerk and independent panel members who will hear your appeal.

### **Arrangements for the appeal**

**Please note that due to current restrictions with regard to social distancing and temporary changes in legislation as a result of this, appeal hearings will be heard either in person if deemed appropriate or else by video conferencing in order to minimise the number of people coming into contact with each other. If the appeal is to be held by video conferencing then the arrangements for this will be provided to you ahead of the appeal hearing.**

Written notice of the date of the appeal hearing must be sent to the appellant at least 14 calendar days in advance of the hearing unless the appellant agrees to waive that right. Appellants should submit information to support their case with their appeal. It is important that you include all points that you wish the panel to consider, including any supporting evidence. If anything is subsequently provided too close to the date of the hearing which the panel thinks may be significant, the panel may decide not to consider the information or may need to adjourn to allow all parties to consider it.

Documentation about the school's case must be sent to all parties a reasonable time before the hearing including information reasonably asked for by the appellants. Information about the names of the panel members and clerk will be provided, although these may be subject to change. Appellants will have the opportunity to inform the clerk if they have any doubts as to the impartiality of particular panel members. Appellants will be notified whether any witnesses have been invited to give evidence.

Appellants may appear in person, which may be via video conferencing if relevant, make oral representations and clarify or supplement their written appeal. Appellants may be accompanied or represented by a friend, adviser, interpreter or signer who may speak on their behalf at the hearing. The services of a translator or signer must be paid for by the admission authority. The friend or advisor can be a Choice Adviser, a locally elected politician, or an employee of the local education authority such as an educational social worker, SEN adviser or learning mentor, provided that this will not lead to a conflict of interest. If appellants intend to be represented or accompanied they should inform the clerk to the appeal panel in advance of the hearing.

### **The appeal hearing**

The panel will normally consist of three people:

- At least **one lay member**
- At least **one person with experience of education**

Temporary changes in legislation will allow appeal hearings to continue with two panel members should one panel member have to unexpectedly withdraw due to a situation that arises as a result of Covid.

Also attending will be:

- **presenting officer** from the board of directors or their representative
- **clerk to the appeal panel**

On occasions there may be observers attending hearings (appellants will be asked whether they have an objection to them observing). These people take no part in the hearing. They may be:

- Appeal panel members or appeal panel clerks in training.

If the appellant or presenting officer fails to attend the appeal may go ahead and be decided on the written information submitted.

### **Order of proceedings**

The panel chair (one of the panel members) will ensure that everyone present is introduced and that the appellant/s understand the procedure.

- The case for the board of directors presented by the presenting officer;
- Questioning by the appellants and panel
- The case for the appellants;
- Questioning by the presenting officer and panel;
- Summing up by the presenting officer;
- Summing up by the appellants.

When there are multiple appeals, the case for the board of directors can be heard in two ways:

1. The presenting officer's case in respect of the school is heard once for the first stage of the appeal in the presence of all appellants, including any representatives and the panel, who may question the case. The case(s) from the appellant(s) is heard individually afterwards.
2. The presenting officer presents the case at the first stage, followed immediately by the individual appellants' case. The panel will therefore hear the board of director's case repeatedly for each family.
3. The appeal panel will decide whether any information or evidence presented after the deadline for submitting evidence (normally 7 calendar days before the hearing) is to be considered, taking into account its significance and the effect of a possible need to adjourn the hearing.

### **The decision – primary, infant, junior, middle & secondary schools**

Except in the case of infant class size appeals the panel must follow a two stage process:

- (a) The first stage is for the panel to establish the facts. They must decide whether the published arrangements have been applied correctly. Appeals can be upheld at this stage, except where there is a significant number of children are affected and admitting all would cause serious prejudice. If the panel identifies any unlawful admission arrangements, they must refer these to the Schools Adjudicator. The panel must also consider a number of factors to decide whether or not there would be prejudice and consider the impact of the locally agreed Fair Access Protocol.
- (b) The second stage is for the panel to decide whether the appellant's grounds for their child to be admitted outweighs any prejudice to the school.

**For Infant Appeals** - Legislation is in place to strictly limit infant classes to no more than 30 children in a class with one teacher.

Where a child has been refused admission to a school on infant class size prejudice grounds, a panel can only offer a place to a child where it is satisfied that either:

- (a) The child would have been offered a place if the admission arrangements had been properly implemented;
- (b) The child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admission Code and the SSFA 1998;
- (c) The decision was not one which a reasonable admission authority would make in the circumstances of the case.

As soon as possible after the decision, the **clerk to the appeals panel** will write to the appellant and board of directors to inform them of the decision. Ideally, this will be within 7 calendar days, although this may not always be possible where there are multiple appeals for one school. Decisions are binding on the appellants and the board of directors. There is no further right of appeal (unless there are significant changes in the child's circumstances e.g. change of residence).

### **Complaints**

Appellants who feel that there has been maladministration in the appeal process may ask the Education and Skills Funding Agency (ESFA) to investigate. The ESFA is not able to overturn an appeal panel's decision but he may make recommendations for a suitable remedy.

The complaint form can be accessed and completed online or downloaded at the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/409389/FINAL\\_Factsheet - Admissions appeals complaints 2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/409389/FINAL_Factsheet_-_Admissions_appeals_complaints_2015.pdf)

The ESFA can also be contacted via an online enquiry form also found at the above link.

Appellants may also take their case to judicial review.

### **Sources of Information**

Diocesan Education Service Don Bosco House Coventry Road, Coleshill B46 3EA	Email: <a href="mailto:r.tonks@bdes.org.uk">r.tonks@bdes.org.uk</a>
Local Authority - School Admissions Section	(see LA website or LA Admissions Booklet for contact details or contact the Diocesan Education Service above for more information)
Department for Education <ul style="list-style-type: none"><li>• School Admissions Code</li><li>• School Admissions Appeals Code</li></ul>	<a href="http://www.education.gov.uk">www.education.gov.uk</a> <a href="http://www.direct.gov.uk">www.direct.gov.uk</a>

**Director of Education  
Diocesan Education Service  
Don Bosco House  
Coventry Road, Coleshill, Birmingham B46 3EA  
Tel: 01675 464755  
Web: [www.bdes.org.uk](http://www.bdes.org.uk)**