

How to: run an effective admissions appeals panel

Appeal Code

Section 3: Reaching Decisions on Appeals Two stage process

3.1 Panels must follow the two-stage decision making process below for all appeals except for infant class size appeals which are dealt with in section 4.

First stage - examining the decision to refuse admission

3.2 The panel must consider the following matters in relation to each child that is the subject of an appeal:

a) whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998; and

b) whether the admission arrangements were correctly and impartially applied in the case in question.

3.3 The panel must then decide whether the admission of additional children¹ would prejudice the provision of efficient education or the efficient use of resources .

3.4 In all cases, the panel must refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements that do not comply with admissions law.

3.5 The panel must uphold the appeal at the first stage where:

a) it finds that the admission arrangements did not comply with admissions law or had not been 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

b) it finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources.

3.6 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 must proceed to the second stage.

¹ At this stage the characteristics and circumstances of the particular child in question will not, except in extreme cases, be relevant to the question of whether the admission will cause prejudice (*R (on the application of M) v Haringey Independent Appeal Panel [2010] EWCA Civ 1103*).

How to: run an effective admissions appeals panel

Appeal Code

3.7 The panel must proceed to the second stage where:

a) it finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child; or

b) 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, the 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.

Second stage – balancing the arguments

3.8 The panel must balance the prejudice to the school against the appellant's case for the child to be admitted to the school. It must take into account the appellant's reasons for expressing a preference for the school, including what that school can offer the child that the allocated or other schools cannot. If the panel considers that the appellant's case outweighs the prejudice to the school it must uphold the appeal.

3.9 In multiple appeals, the panel must not compare the individual cases when deciding whether an appellant's 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 must 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.

Consideration of prejudice

3.10 Whilst the panel must take into account the school's published admission number, the admission authority must be able to demonstrate prejudice over and above the fact that the published admission number has already been reached. The panel must not reassess the capacity of the school, but must consider the impact on the school of admitting additional children. In reaching a decision as to whether or not there would be prejudice the panel may consider the following factors:

a) what effect an additional admission would have on the school in the current and following academic years as the year group moves through the school;

How to: run an effective admissions appeals panel

Appeal Code

- b) whether any changes have been made to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
- c) the impact of the locally agreed Fair Access Protocol;
- d) the impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.