

North Tyneside Admission Appeals Service

Procedure Guide

School Admission Appeals

This guide is for parents or guardians who wish to appeal against the decision of a school's admission authority not to admit their child to their preferred school. If you applied for a place in an infant class (Reception, Year 1 or Year 2) and were refused a place due to infant class size regulations, please see the Procedure Guide for Infant Class Size School Admission Appeals.

1. Appeals

The School Standards and Framework Act 1998 places on admission authorities a duty to admit a child to the parent/guardian's preferred school unless to do so would prejudice the provision of efficient education or the efficient use of resources. This means that if the admission of an additional child to the preferred school would have a detrimental effect on the operation of the school in terms of the delivery of education or its use of resources, then the admission authority can refuse to admit the child. Please see paragraph 5 for more information on admission authorities.

The School Standards and Framework Act allows a parent/guardian the right of appeal against the admission authority's decision to refuse a place at the school.

Your appeal will be determined at a hearing of the Admissions Appeal Panel, which is independent of the Council, the admission authority and the school. The panel must act in accordance with the law and the School Admission Appeals Code¹.

2. The Education Appeal Panel

An education appeal panel will normally consist of three members appointed from the following categories:

- a) People who are eligible to be lay members. This means people without personal experience in the management of any school or the provision of education in any school (disregarding experience as a school governor or in

¹ The School Admissions (Appeals Arrangements) (England) Regulations 2012 and the School Admissions Code 2021.

another voluntary capacity). There must be at least one lay member on the panel.

- b) People who have experience in education, who are acquainted with educational conditions in the admission authority's area, or who are parents of registered pupils at a school. There must be at least one panel member from this category.

The role of the education appeals panel is to consider the cases put forward by both sides (i.e. you and the admission authority) and come to a decision on whether to uphold your appeal and admit your child to your preferred school or not.

The decision of the education appeals panel is binding on both you and the admission authority.

3. The Clerk

The clerk to the education appeals panel will be an officer from the Council's Democratic Services team. The clerk's role is to make the necessary administrative arrangements for the hearing and to offer advice on procedure to the panel, appellants and the admission authority. The clerk will be present during the hearings to ensure that the relevant facts are established and that the hearing is fair to all parties. This officer is **not** involved in admission decisions.

If you have any questions about the education appeals procedure you can contact the Clerk to the Admission Appeals Panel on 0191 643 3622/7155/3442/2655/5320 or at education.appeals@northtyneside.gov.uk

4. The Appellant

When you submit an appeal on behalf of your child you become the appellant.

While your appeal must be submitted in writing (as must the admission authority's reasons for refusing your application for a place), 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 its decision.

You can choose to be accompanied at the hearing by a friend or be represented by a friend or some other person. You may call witnesses to attend the hearing.

If you wish to bring a witness with you, please let the clerk know as soon as possible. The evidence to be given by witnesses must be relevant to the issues involved in the appeal and not just repeat information provided by another party. If you need further advice please contact the clerk to the education appeal panel.

If you do not wish to or are unable to attend the hearing, your appeal will be decided on the written information you have provided. The admission authority would still be allowed to attend the hearing and present their case to the panel.

5. The Admission Authority

The admission authority is the body responsible for setting admissions criteria and procedures and for allocating places in accordance with those criteria. The local authority (North Tyneside Council) is the admission authority for the community and voluntary controlled schools within its area. The governing body is the admission authority for foundation schools (including Trust schools), voluntary aided schools and academies.

The admission authority must provide information to the clerk on how the admission arrangements have been applied to your child, the reasons for the refusal of a place and an explanation as to how the admission of an additional child would prejudice the provision of efficient education or the efficient use of resources. This information will be sent to you before the hearing.

If you are appealing for a place at a community school, the admission authority will be represented at the hearing by an officer from the Council's Access Team and a teacher, usually the Headteacher, from the school.

If you are appealing for a place at a trust, voluntary aided or academy school the admission authority will be represented at the hearing by a member of the governing body, usually the Chair of Governors, and a teacher, usually the Head teacher, from the school.

If the panel upholds your appeal, the admission authority must admit your child to the school.

6. Before the Hearing

The clerk will give you at least 10 school days' notice of the date on which your appeal will be heard. This notification will include a deadline for the submission of any further information relating to your appeal that you would like the panel to consider. There may be circumstances in which 10 school days' notice is not possible, for example the submission of an appeal for a school for which an education appeals panel has already been arranged to meet in 8 school days. In these cases your consent will be required to proceed using a shorter timescale.

If you are appealing following National Offer Day, it is likely that your appeal will be heard as part of a multiple appeal (see paragraph 9 for more information). As it is important for appeals for the same school to be heard by the same panel, it will not be possible to alter the date that is set for your appeal.

Around 5 working days before the hearing the clerk will send you all of the documentation relating to your appeal which will be considered by the panel, including anything which has been submitted by you. If you agreed to waive the 10 school days' notice of the date of the meeting, this timescale may be shorter.

7. Appellant's submission

You can raise (either in writing prior to the appeal or in person at the appeal hearing) anything which you believe shows that the admission process was not done properly and that your child should have been offered a place if they had been done properly and/or that the admission of an additional child would not cause prejudice to the provision of education at the school or its efficient use of resources.

You can also raise anything that you believe helps explain what your preferred school could offer that the allocated or other schools cannot.

If you have written evidence to support your reasons for appealing, for example medical letters or reports, you are encouraged to submit this to the panel.

If you intend to provide any documents, information and/or evidence to support your case please submit these by the date specified in the letter which confirms the date of the hearing; this date is usually six working days before the hearing date. Any information submitted after this date will only be allowed by the agreement of the

admission appeals panel, which will take into consideration its significance and the effect of a possible need to adjourn the hearing.

8. The Appeal Hearing

If you are appealing after being refused a school place on 'national offer day' then it is likely that your appeal will be heard as a multiple appeal. A multiple appeal is when there is more than one appeal for the same year group at a school.

The procedure outlined below is for when there is only one appeal for a year group at a school. This procedure is varied for a multiple appeal; these variations are explained in paragraph 9.

The hearing will be as informal as possible and will be heard in private. At the start of the hearing the Chair will welcome all parties, introduce those present and explain how the hearing will be conducted.

The panel will follow a two stage process.

8.1 Stage one – examining the decision to refuse admission

The panel will consider whether:

- a) the admission arrangements were lawful² and whether they were correctly and impartially applied in your child's case; and then
- b) whether the admission of an additional child would prejudice the provision of efficient education or the efficient use of resources. In other words would the admission of an extra child detrimentally affect the provision of education at the school or incur unreasonable extra expenditure.

The admission authority must be able to demonstrate prejudice over and above the fact that the published admission number has been reached³. The panel will consider a number of factors in reaching a decision as to whether or not there would

² Did they comply with the mandatory requirements of the Schools Admission Code and Part 3 of the Schools Standards and Framework Act 1998.

³ The published admission number (PAN) is the maximum number of pupils to be admitted into a particular year group at a school.

be prejudice. This may include considering, in light of current school organisation and structure, what effect an additional admission would have on later year groups.

To allow the panel to do this the following procedure will be followed:

- 1) The representative of the admission authority will explain the admission arrangements, the application of the admission arrangements and why your child had been refused admission.
- 2) You and the panel members will ask any questions of the admission authority's representative and challenge their case.
- 3) The admission authority's representative will sum up its case.
- 4) You will then leave the meeting room, together with the admission authority's representative, to enable the panel to make a decision on questions a) and b) above in private.

The clerk will remain with the panel to provide advice on law and procedure. They will take no part in the decision making process. If you do not attend the hearing, the admission authority's representative will still leave the meeting **before** the panel considers its decision. At no point will either you or the admission authority's representative be left alone with the panel members.

If the panel finds either that:

- a) the admission arrangements were not lawful or had not been correctly and impartially applied **and** your child **would** have been offered a place if they had been; or
- b) the admission of an additional child would not prejudice the provision of efficient education or the efficient use of resources

then your appeal will be upheld and the hearing will conclude. If not, the hearing will proceed to the second stage.

8.2 Stage Two – balancing the arguments

At the second stage the panel will consider the prejudice that will be caused to the school if your child was admitted and your reasons for preferring the school to the one allocated and others in the area and decide which argument has most weight.

To allow the panel to do this the following procedure will be followed:

- 1) You will put your case for your child's admission to your preferred school.
- 2) The admission authority's representative and the panel members will ask questions of you.
- 3) The admissions authority will restate their reasons for refusal.
- 4) You will be given the opportunity to sum up your case.
- 5) You leave the meeting, together with the admission authority's representative, to enable the panel to make a decision on your appeal in private.

There is a flowchart of this process on page 10.

The decision of the panel will be sent to you in writing, usually within 5 school days of the hearing. If you would like to know the panel's decision before receiving the written notification you can make arrangements to telephone the clerk after the hearing.

9. Multiple appeals

Where a number of appeals have been received for the same year group at a school it is expected that the same panel will consider all the appeals for that school at the same meeting. In those circumstances all appellants will be invited to attend stage one at the same time with individual appointment times for the potential second stage.

The same procedure as outlined above will be followed, however questions regarding your particular personal circumstances should be kept for the second stage which will be heard in private, without the other parents. There is a flowchart of this process on page 11.

- 9.1** If the panel decides that all appellants' children could be admitted without prejudice in stage one (see paragraph 8.1) it must uphold all the appeals and the hearing will conclude.

However, if the panel finds that additional children could be admitted without prejudice to the provision of efficient education or the efficient use of resources **but** that the **total** number of appellant children **would** cause prejudice if they were **all** admitted, then the panel must proceed to the second stage to decide which of the appeals to uphold (see paragraph 8.2).

9.2 If the admission authority is able to satisfy the panel that there would be prejudice if **any** of the children were admitted, the panel will proceed to the second stage to decide whether any of the individual parental cases outweigh the prejudice to the school.

Where the panel proceeds to the second stage, no decision will be taken on any individual case until the second stage of all the appeals has been completed.

10. After the Hearing

If your appeal is successful you may wish to contact the school to make arrangements for your child's admission. The school will be informed by the clerk of the appeal outcome.

If your appeal is unsuccessful you may wish to contact the Council's Access Team to discuss the alternatives for your child's education, tel: 0191 643 8724.

There is no further right of appeal for the same school for the same academic year unless, in exceptional circumstances, the admission authority has accepted a second application from you and that in turn has been refused.

If you feel there has been maladministration by an education appeals panel you can make a complaint to the Local Government and Social Care Ombudsman. The contact details are as follows:

Local Government and Social Care Ombudsman
PO Box 4771
Coventry
CV4 0EH

Telephone: 0300 061 0614

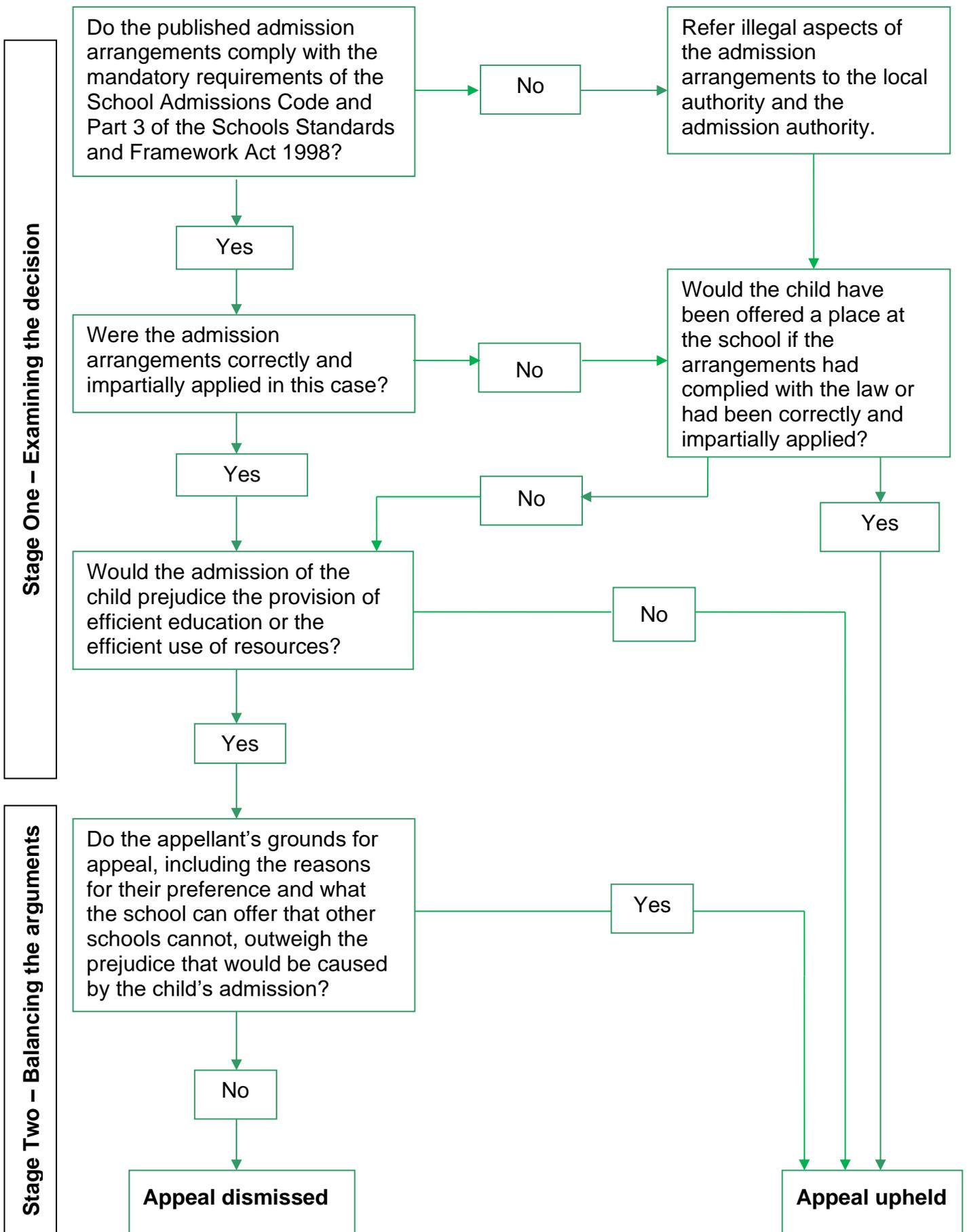
Website: <http://www.lgo.org.uk>

The Ombudsman may investigate complaints of maladministration in the conduct of an appeal hearing or in respect of its organisation, however, please note that the Ombudsman can only request a re-hearing and cannot overturn the decision of any appeal panel.

If the school is an Academy then you may complain to the Education and Skills Funding Agency, via the website: www.gov.uk

An appeal panel's decision can only be overturned by the courts where the appellant or admission authority is successful in a judicial review of that decision.

Single Admission Appeal



Multiple Admission Appeals

