

Appeals Team

Admission to schools in Worcestershire – parents' guide to the appeals process

THIS INFORMATION HAS BEEN UPDATED FOLLOWING NEW TEMPORARY REGULATIONS INTRODUCED ON 24 APRIL 2020 (UPDATED 1 FEBRUARY 2021 AND 1 OCTOBER 2021) AS PART OF THE COVID 19 RESPONSE

The County Council as Admissions Authority (or the school itself as Admissions Authority in the case of Academies, Foundation Schools, Free Schools and Voluntary Aided Schools) provides school places for children of statutory school age including First, Middle, Primary and High Schools.

This guide explains what happens if you want to appeal the allocation of a school place for your child. If your child is, or will be, in an infant class (Year R – Year 2) and the “infant class size prejudice” rules apply you will need to refer to the leaflet on the Council’s website entitled “Admission to schools in Worcestershire – parents’ guide to the appeals process – pupils in infant classes where infant class size prejudice” rules apply”.

Education for your child

The law allows you to express a preference for the school you would like your child to attend – 'your preferred school'. However, you do not have an absolute right to choose a school because the law says the Admissions Authority need not meet your preference if the year group in question is full and meeting your preference would prejudice the provision of efficient education or the efficient use of resources.

An Appeal Panel - why?

If your school preference has not been met by the Admissions Authority the law gives you a chance to put your case to an independent Appeal Panel. The Appeal Panel is your opportunity to put your side of the argument and persuade them that your child should have a place at your preferred school.

How will the appeals take place?

Due to Government restrictions in response to Covid-19 it is not possible for appeals to happen in person. The temporary Regulations published on 24 April 2020 (updated 1 February 2021 and further updated on 1 October 2021) allow for appeals to take place remotely via telephone or video links or solely on written representations. The temporary Regulations have also revised the deadlines by which appeals should be heard. Hearings should now take place as soon as is reasonably practicable. The School Appeals Timetable sets out the timeframe for arranging Appeals:

http://www.worcestershire.gov.uk/info/20099/school_admissions/544/appealing_a_n_admissions_decision

Appeals Process

After you have put the details of your appeal in writing to the Admissions Authority they pass your details to the Clerk who will organise the independent Appeal Panel which will consider your appeal. The Clerk will send you full details of the procedure for your appeal before the day of the hearing. As outlined above, the appeal will take place remotely via telephone or video links or solely on written representations. If you do not wish to take part in your hearing remotely, you can opt to have your appeal dealt with on the basis of the all the written information you have submitted. Please let the Clerk know as soon as possible if this is the case.

You will be given 14 calendar days' notice of the date and arrangements for the appeal hearing. However, in special circumstances and if all parties agree, the 14 calendar days' notice can be waived.

Before the hearing, you will be sent the Admission Authority's written Statement setting out their case for refusing your request for a particular school. This, together with any correspondence from you, will be sent to the Appeal Panel. It is important that any further information you want passed to the Appeal Panel is provided as soon as possible and at least by the deadline given to you by the Clerk. The Appeal Panel will decide if any late material, received after this, will be considered. You are responsible for making sure that any supporting evidence for your case is made available so it can be circulated to all parties. You cannot ask the Appeal Panel, Clerk or Admission Authority to contact anyone such as a doctor or social worker to confirm aspects of your case.

The Appeal Panel is made up of three people who are totally independent of the County Council, the Admission Authority and the school/Academy you are appealing for and are generally not from your local area. Any decisions they make are binding on all parties. The Appeal Panel is required to act in accordance with the School Standards and Framework Act 1998 and the Codes on School Admissions and School Admission Appeals. The Appeal Panel performs a judicial function and must be transparent, independent and impartial, whilst operating in accordance with the principles of natural justice. The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2020 came into force on 24 April 2020 (updated 1 February 2021 and further updated on 1 October 2021) and allows for an Appeal Panel of two people to continue if one member has to withdraw for a reason related to Covid-19.

The Clerk to the Appeal Panel takes no part in the decision making and simply advises the Panel on the correct procedure. The Clerk has no involvement in the day to day administration of the admissions process.

The Admission Authority will be invited to provide a Presenting Officer for any remote access hearings that are arranged in order to put its case for refusing your request for your preferred school. If you choose to attend your appeal

hearing the Presenting Officer will not be able to speak to the Appeal Panel without you being present and is not there when the Appeal Panel make their final decision on your appeal.

PLEASE NOTE THAT: Appeals are heard during the working day. If you are appealing for more than one school, you will have separate hearings for each school which are also likely to be on different days.

How do the Panel make their decision?

The Admissions Authority can refuse your preference where the year group in question is full and they think it would "prejudice the provision of efficient education or efficient use of resources" to let more children in. This means that to let more children into a school year group which is full would be bad not only for the children already there but also for any further children joining them. The Panel must consider whether the Admissions Authority is correct in its assessment that it would be prejudicial to admit more children to that year group. The decision making process the Panel goes through is explained more fully below.

Considering prejudice and balance

The Admission Authority has said that the year group in question is full and provided a Statement. You and the Appeal Panel will be given the opportunity to ask questions on the Statement. The members of the Panel will consider this and also the case you have put for wanting your preferred school. The decision is in two stages and includes consideration of whether the Admissions Authority has applied its rules correctly. The Appeal Panel has the power to either refuse or allow your appeal.

FIRST STAGE – EXAMINING THE DECISION TO REFUSE ADMISSION

The Panel must consider:

(a) whether the admission arrangements (including the area's co-ordinated admission arrangements) comply with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998, and whether they were correctly and impartially applied in the case(s) in question (and therefore by implication if they were not, whether the child in question would have been offered a place if the arrangements had been properly applied or did not contravene mandatory provisions – it is not enough that a mistake has been made, the mistake must have cost your child a place at the school), and

(b) whether the admission of additional children to the school would prejudice the provision of efficient education or efficient use of resources or in lay terms does the Appeal Panel agree with the Admissions Authority that the year group is full?

THE PANEL SAY NO

OR

THE PANEL SAY YES

The Panel disagree with the Admission Authority



They can agree to admit more children to the particular year group. This may not mean all the appeals, if there is more than one, are upheld

The Panel agree with the Admission Authority



If the Panel have found that there would be prejudice, that is they agree with the Admission Authority that the year group is full or your appeal has not been upheld where there was a finding of no prejudice (see opposite), there is still a **second stage** in their decision making

SECOND STAGE – BALANCING THE ARGUMENTS

The Panel will look at whether you have given any special reasons during your Appeal for wanting a particular school which are so strong and overriding that they outweigh any prejudice the Admission Authority say would occur?

THE PANEL SAY YES



Appeal upheld and a place made available

OR

THE PANEL SAY NO



Appeal turned down

When will I know the decision?

The Clerk will write to you with the Appeal Panel's decision as soon as possible after the hearing but not later than seven days, unless there is good reason. This decision is binding on the particular Admission Authority involved.

What can I do if my appeal is unsuccessful?

If you are unsuccessful there is no further right of appeal. You may want to consider placing your child on the waiting list for your preferred school. Waiting lists are maintained by the Admissions Authority and your position on a waiting list has no bearing on your Appeal. In the case of non-academy schools, if you are unhappy with the way your case was dealt with you can complain to the Local Government and Social Care Ombudsman (LGO). A complaint to the LGO is not a further appeal and cannot overturn the Panel's decision. The LGO can only investigate if there has been maladministration i.e. a failure to follow correct procedures or failure to act independently or fairly. If your complaint is about an Academy you will need to contact the Education and Skills Funding Agency.

Further information about the appeals process is available on the Government's website here: <https://www.gov.uk/schools-admissions/appealing-a-schools-decision>

The Local Government and Social Care Ombudsman's website is here:
<https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/school-admissions>

The Education and Skills Funding Agency website is here:
<https://www.gov.uk/guidance/academy-admissions>

Whatever you decide to do there is no guarantee of a place for your child at the preferred school. You are therefore advised to consider making alternative arrangements for your child's schooling. This may mean contacting the relevant Admissions Authority which could be an Academy or the School Admissions Team to talk about the options now open to you. The Admissions Team will be able to talk about alternative schools, transport options and if necessary 'education otherwise'.

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