

# **DARLINGTON BOROUGH COUNCIL**

## **A GUIDE TO ADMISSION APPEALS**

---

For further information

Please contact:  
Clerk to Admission Appeals  
Tel: 01325 405801



## **CONTENTS**

Introduction

### **WHY APPEAL?**

1. I thought I could choose & get the school I wanted my child to attend?
2. Why do I have to come to an Appeal Panel hearing?

### **WHEN CAN I APPEAL?**

3. Are there circumstances where I do not have a right to appeal?

### **WHO IS AT THE APPEAL HEARING?**

4. Who will be at the Appeal Hearing?
5. Will the appeal be heard in private?

### **ABOUT THE APPEAL PANEL**

6. Who are the Appeal Panel members?
7. What powers does the Appeal Panel have?

### **OTHER PEOPLE INVOLVED IN THE APPEAL HEARING**

8. What is the role of the Clerk to the Appeal Panel?
9. What is the role of the AA officer at the appeal hearing?

### **ATTENDING THE APPEAL HEARING**

10. Should I attend the appeal hearing?
11. What happens if I need an interpreter/signer or other help?
12. Can I bring someone with me to help me present my case?
13. Can I bring my child to the appeal hearing?
14. What happens if I do not attend the hearing?

## **NO LONGER WISH TO APPEAL**

15. Can I withdraw my appeal?

## **PREPARING FOR THE APPEAL**

16. Will I have any information about the AA's case before the appeal hearing?

17. How can I prepare for the appeal hearing?

18. Is there anyone who can help me with preparing for my appeal ?

19. What can I say at the appeal hearing?

20. Does the Appeal Panel need any supporting evidence about my reasons for appealing?

21. Can I ask the Appeal Panel to contact anyone, such as my doctor or social worker, to confirm what I have said on my appeal form or at the appeal hearing?

22. When can I provide my supporting evidence?

## **THE APPEAL HEARING**

23. How long does an appeal hearing take?

24. What will happen at the appeal hearing?

25. Why does the Chair ask if we have had a fair opportunity to put our case?

26. Does the Appeal Panel ever adjourn the appeal hearing?

27. What should I do if I think that the AA has made a mistake in applying the admission criteria or the admission arrangements, including co-ordinated arrangements?

## **WHEN THE APPEAL PANEL MAKES ITS DECISION**

28. When does the Appeal Panel make its decision?

## **INFANT CLASS APPEALS**

29. What is an infant class?
30. Which year groups are infant classes?
31. What is the limit to the number of pupils in an infant class?
32. When does the infant class size limit of 30 apply?
33. Are all appeals for infant classes going to be “infant class size”?
34. How will I know if my infant class appeal is “infant class size”?

## **THE APPEAL PANEL’S DECISION**

35. How does the Appeal Panel decide whether to allow or refuse my appeal?
36. How will I find out the outcome of my appeal?

## **AFTER THE APPEAL**

37. If my appeal is refused can I appeal again?
38. What can I do if I am unhappy about the appeal process?
39. Can I complain to the Secretary of State for Education?
40. What if I think that the decision of the Appeal Panel was wrong in law?
41. What should I do if my appeal has been refused and I do not want to send my child to the school that has been allocated?
42. Will appealing affect my child’s position on the waiting list?
43. What if I think my child has been discriminated against on the grounds of his/her disability?
44. What if my child has a Statement of Special Educational Needs?

## **APPENDIX**

Useful contact information

## Introduction

The School Standards and Framework Act (SSFA) 1998, as amended, and the Codes of Practice on School Admissions and School Admission Appeals produced by the Department for Education, as defined by case law, govern all school admission appeals, both for maintained schools and academies.

The SSFA 1998 requires all Admission Authorities (AAs) to make arrangements for enabling parents to appeal against decisions made by the AA as to the school at which their child is to be educated.

This guidance explains how the appeals process works and will help you to prepare for the appeal hearing.

Below are the most frequently asked questions that will help you to:

- understand the process;
- know what will happen at an appeal hearing;
- understand how Independent Appeal Panels make their decisions.

### **1. I thought I could choose and get the school I wanted my child to attend?**

The SSFA 1998 allows you to express a preference regarding the school you would like your child to attend; however, you do not have an absolute right to choose a school because the law states that the AA need not meet your preference if the Year group has reached its Admission Number and, as a result, compliance with your preference would “prejudice the provision of efficient education or the efficient use of resources”.

### **2. Why do I have to come to an Appeal Panel hearing?**

As your child has not been offered a place at the school of your preference you have the right to appeal against the AA’s decision. Appeals can be made in relation to any school year group up to and including the age of 18.

The law gives you the opportunity to put your case to an Appeal Panel whose decision is made independently of the AA. The appeal hearing is your chance to put your side of the argument – to have your say.

### **3. Are there circumstances where I do not have a right to appeal?**

You do not have the right to appeal for a school if your child has been permanently excluded from two or more schools and at least one of these exclusions took place on or after 1 September 1997.

#### 4. Who will be at the Appeal Hearing?

- You and your partner, friend, supporter, representative or legal adviser
- The Appeal Panel (3 members)
- The Clerk to the Appeal Panel ('the Clerk') and possibly a Legal Adviser
- An Officer from the AA and possibly a representative of the school

Sometimes there is also an observer. This may be someone who is training to be an Appeal Panel member; or appeal Clerk; or AA presenting officer.

You will be asked if you object to an observer being present for any part of your appeal hearing.

#### 5. Will the appeal be heard in private?

As well as the people already mentioned, if there is more than one person appealing for a place at your preferred school, the AA may present its case in the presence of all of the parents appealing for the school or in groups of parents. This is because this part of the appeal is facts and figures about the school and it ensures that all parents have the same opportunity to hear the AA's case.

However, **when you present your case it will be heard without any other parents** in the room.

#### 6. Who are the Appeal Panel members?

The Appeal Panel will have three members and:

- One member must have experience in education; be familiar with educational conditions in the AA's area; or be a parent of a registered pupil at a school
- One member must be a lay person, that is, someone 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 any other voluntary capacity)
- The third panel member will be from either of the above two categories

No member of the Appeal Panel will have any connection with either your preferred school or the school you have been allocated. The decision of the Appeal Panel is made **independently** of the AA.

## **7. What powers does the Appeal Panel have?**

The Appeal Panel can either refuse or allow your appeal. It has no other power. The Appeal Panel cannot:

- attach any conditions if it allows your appeal
- hear complaints or objections on wider aspects of local admission policies and practice eg it cannot change the oversubscription criteria for the school
- order the AA to change your position on the continued interest list for the school

However, an Appeal Panel can consider if the AA's admission arrangements have been properly implemented.

Therefore, if an Appeal Panel found that your child would have been offered a place if the admission arrangements had been properly implemented the Panel will allow your appeal, unless the mistake affects a significant number of children and the admission of all of them would cause serious prejudice.

If you would not have been offered a place but the AA finds that your position on the waiting list or continued interest list has been altered the AA will make any necessary changes to that list.

## **8. What is the role of the Clerk to the Appeal Panel?**

The Clerk is present to ensure the appeal is conducted fairly. The Clerk does not have any say at all in the Appeal Panel's decision but is there to:

- provide an independent and impartial service and deal with any questions you may have prior to the hearing
- ensure the relevant facts are established
- be an independent source of advice (or to seek appropriate advice) on the law and procedures
- record the proceedings, decisions and reasons
- after the appeal, notify all concerned of the Appeal Panel's decision



## **9. What is the role of the AA officer at the appeal hearing?**

The AA officer is **not** involved with the decision making process of the appeal hearing in any way.

The AA officer is responsible for producing the case stating why a place cannot be offered to your child at your preferred school. S/he will present the case on behalf of the AA at the appeal hearing about the school and answer any questions raised by you, any other parents and the Appeal Panel members.

Also, in the same way you can ask the officer questions about the AA's case, to ensure a fair hearing, the officer may ask you questions about your reasons for appealing.

## **10. Should I attend the appeal hearing?**

**Yes**, if at all possible! You are the best person to tell the Appeal Panel why you want your child to go to the school as you know your situation and will be able to provide information to help the Panel make an informed decision.

## **11. What happens if I need an interpreter/signer or other help?**

You may have an interpreter or signer at your appeal hearing. If you would like the Clerk to arrange this for you, free of charge, please ask the Clerk well before the appeal hearing. Alternatively, if you would prefer, you may arrange for your own interpreter/signer to come with you.

## **12. Can I bring someone with me to help me present my case?**

You may bring a member of your family, a friend, your neighbour or a representative along with you, either to help you say what you want or to speak for you or to simply give you support.

Your friend or representative can be 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 you do intend to bring along someone from any of these groups it would be helpful if you could notify the Clerk in advance of the hearing.

It should not normally be necessary for you to bring a solicitor or lawyer as this is not a court of law and we aim to keep the appeal hearing as informal as we can. Any legal costs incurred by you are not recoverable in any event.

The Code of Practice states that you are entitled to decide how to organise your presentation to the Appeal Panel but it is unlikely to be necessary for witnesses to attend. It also states that the Panel may consider it appropriate to allow witnesses who do attend to give evidence, provided that it is relevant and not repetitive.

### **13. Can I bring my child to the appeal hearing?**

It is your decision as to whether or not your child should attend the hearing; however it is requested that you do not bring any other children to the hearing. If this causes you difficulties in attending please let the Clerk know in advance of the hearing.

### **14. What happens if I do not attend the hearing?**

If at all possible you should attend but, if you cannot do so for a genuine reason, we will try to arrange another date wherever possible.

However, it is important that you **contact the Clerk as soon as possible** to let the Clerk know if you cannot attend on the date or time fixed for your appeal.

If you, or someone who can put your case, cannot attend and another date cannot be arranged, your case will be heard in your absence and your appeal will be decided on the information that is available at the hearing.

**Please note: if you are not at the appeal hearing and the Clerk has not been notified whether or not you will be attending your case will be decided on the information that is available at the hearing.**

### **15. Can I withdraw my appeal?**

Yes. You can withdraw your appeal before (and during) the appeal hearing by telephoning and then confirming it in writing to the Clerk.

### **16. Will I have any information about the AA's case before the appeal hearing ?**

Normally, at least seven days before the appeal hearing you will be sent a full set of papers which will include:

- The case for the AA stating why your child could not be allocated a place at your preferred school and which should also normally show how the admission arrangements for the preferred school apply to your application;
- A copy of the decision letter refusing you a place at your preferred school;
- Your appeal form and any other papers you have submitted to support your appeal; and
- Copies of any further information or documents that the AA will be producing at the hearing

These documents will also be sent to the Appeal Panel at the same time.

## 17. How can I prepare for the appeal hearing?

**You** are responsible for presenting your case, for deciding what you would like to say at the appeal hearing and what written information you want the Appeal Panel to have.

So before the appeal hearing you are advised to:

- Familiarise yourself with the procedures (see Question 24)
- Make a note of any questions you may have about your appeal
- Make sure you have looked at the AA's case before the appeal hearing
- Make a note of any questions you would like to ask the AA officer about the AA's case
- Spend some time deciding what you would like to say when the Panel invites you to explain your reasons for wanting your child to attend your preferred school – it might be helpful to make a note of the main points
- Make sure you submitted any additional paperwork to support your appeal such as a doctor's letter, confirmation of completion of your house purchase, or a rental agreement, or any other documentation at least three days prior to the hearing
- On the day of the appeal hearing, bring with you to the appeal: the AA's case and papers which were sent to you seven days before the appeal; your supporting letters and documents; proof of your address(es); any notes of questions you may have; and this guidance.

## 18. Is there anyone who can help me with preparing for my appeal?

In the first instance, please contact the Clerk who can help you with any queries or concerns you may have. S/he may be contacted on **01325 405801**.

If you would like further advice or information, ACE Education Advice (ACE) and Coram Children's Legal Centre are independent national education advice centres which provide information and advice on the education system.

Both organisations operate national advice lines. Their contact details are listed in the Appendix to this Guide, along with those of other organisations which may be able to assist you.

## 19. What can I say at the appeal hearing?

It is very important that you tell the Appeal Panel everything that is relevant to your case. The appeal is confidential so please feel free to say whatever you need to.

Do not think “Oh, that’s not really important” – make the most of your opportunity to talk to the Appeal Panel. The Clerk and members of the Appeal Panel want to be certain that you do not leave your appeal thinking that things have been left unsaid.

The members of the Appeal Panel have to make their decision on what information they have been given; so make sure you tell them what is relevant and important about your case.

## 20. Does the Appeal Panel need any supporting evidence about my reasons for appealing?

Yes

- If your case is based on medical or social grounds of either your child or anyone else in the family, you should, wherever possible, provide written evidence from a doctor or other professional, such as a social worker, to support this.
- If your case is based on a house move you should provide evidence of confirmation of the completion of your house purchase; or a tenancy agreement; or any other relevant documentation.
- If part of your case for seeking a new school for your child is dissatisfaction with the current school, such as you believe that your child is being bullied, you are advised to provide evidence such as letters of complaint and other correspondence.
- You are also invited to put forward any letters, written reports or documents or any other evidence that you think will support your case.

## 21. Can I ask the Appeal Panel to contact anyone, such as my doctor or social worker, to confirm what I have said on my appeal form or at the appeal hearing ?

No. **You** are responsible for making sure that the Appeal Panel has any written supporting evidence at the appeal hearing.

## 22. When can I provide my supporting evidence?

- If you have already forwarded it to the AA your supporting evidence will be included in the papers sent out seven days before the appeal hearing.
- If you have not already sent it in please send it at least three days prior to your hearing to the Clerk. S/he will ensure that it is included in the case papers sent out before the appeal hearing.
- If you bring a lot of written information on the day of the appeal hearing you should be aware that the Appeal Panel may have to adjourn your appeal so that they, and the AA officer, have the opportunity to read this additional evidence to ensure that they give it proper consideration.

**Please note that if you will not be attending the hearing your appeal will be decided on only the information available at the appeal hearing.**

Therefore, it is important that you make sure the Appeal Panel has all the letters and documents you wish it to consider as well as proof of your address. All of these must be sent to the Clerk at least three days prior to the appeal hearing. The Clerk will return any documents which you ask to be returned to you with the decision letter.

## 23. How long does an appeal hearing take?

It is difficult to say exactly.

- If you are the only person appealing the whole appeal will normally take approximately 45 minutes but there is no time limit. Your appeal will take as long as is required for all relevant information to be presented.
- If there is more than one appeal you are given a time for the AA officer's presentation, which is also your, and the other parents', opportunity to ask him/her questions about the AA's case. This part can take somewhere between 30 minutes and an hour depending on the complexity of the points raised and the number of parents attending.

You are also given a second time for your personal case, which normally takes about 30 minutes, that includes time for questions and summing up by the AA officer and you.

For all appeals you are advised to arrive at least 15 minutes before the first time shown on your letter as the Clerk will speak to you before your appeal starts in case you have any last minute queries about anything at all.

However, depending on how long it takes to hear any appeals listed earlier in the day, you are advised that there may be a delay and the waiting time may be 5 – 10 minutes or even longer.

## **24. What will happen at the appeal hearing?**

The Appeal Panel and the Clerk try to make appeal hearings as informal as possible and ensure that both you and the AA officer have the same opportunity to speak.

The procedure for hearing an appeal will depend on whether or not you are the only person appealing.

- (i) Where there is more than one set of parents appealing for the same year group in the same school the Appeal Panel normally hears the appeal in the following order:

### **Stage 1 (with all parents present)**

- Welcome
- Chair introduces the Appeal Panel; outlines the procedure to be followed and explains the decision making process
- The AA officer presents the case
- Questions

### **Stage 2 (no other parents in the room)**

- You present your case
- Questions
- Summing up by the AA officer
- Summing up by you
- Chair asks you and the AA officer if you feel that you have had a fair opportunity to say everything you wish to

- (ii) Where you are the only person appealing for that year group in that school, stages 1 and 2 above will be heard in one hearing.

## **25. Why does the Chair ask if we have had a fair opportunity to put our case?**

The members of the Appeal Panel and the Clerk want to be sure that you and the AA officer both feel that you have had the opportunity to present your case in the way you wanted to.

If you do not think that this is the case, please tell the Chair so that it can be put right immediately. It is very important that you leave the room satisfied and had a fair opportunity to present your case.

## **26. Does the Appeal Panel ever adjourn the appeal hearing?**

Yes. The Appeal Panel may adjourn the appeal hearing to later in the same day or another day in the following circumstances:

- If substantial new issues are raised for the first time at the hearing it may be necessary to adjourn to allow any party taken by surprise to consider the issues; or
- If a parent submits a lot of additional information on the day of the hearing and it is in the best interests of both parties that the Appeal Panel ensures it gives full consideration to the new information before it; or
- If the Appeal Panel requires further information to be obtained by the AA or parent; or
- If, due to the time it takes to deal with any stage of any appeal that was not anticipated, the Appeal Panel may have to adjourn that appeal or any other appeal to a later time or another day; or
- If a Panel Member is ill or absent; or
- For any other appropriate reason.

## **27. What should I do if I think that the AA has made a mistake in applying the admission criteria or the admission arrangements, including co-ordinated admission arrangements?**

You are responsible for ensuring that you challenge what the AA has or has not done.

For example, if you think that the AA has not measured the shortest walking route judged to be safe as defined on the AA's Geographic Information System, you can query this both before and at the appeal hearing.

However, it would be helpful if you could raise it with the AA before the appeal hearing so that it can be checked by the AA; otherwise it may be necessary to adjourn the appeal to have the route and distance checked before the Appeal Panel can make its decision.

## **28. When does the Appeal Panel make its decision?**

If you are the only person appealing then a decision will usually be made on the day of your appeal.

If there is more than one appeal then decisions would not normally be made on individual cases until all parents have been involved in all stages of the process or an injustice could result.

However, in exceptional circumstances, if a parent asks to be heard later than the time arranged and if the gap is significant, it might not be reasonable to hold up decisions for the other parents.

## **29. What is an infant class?**

An infant class is a class in which the majority of pupils will reach the age of 5, 6 or 7 during the school year.

## **30. Which Year Groups are infant classes?**

Normally infant classes are Reception and Years 1 and 2 but sometimes, when a school mixes its year groups, it might affect a class that has some Year 3 pupils.

*For example*, a class could have 18 Year 2 pupils mixed with 12 Year 3 pupils and this would be counted as an infant class because the majority of pupils in that class will reach the age of 7 in the school year.



### **31. What is the limit to the number of pupils in an infant class?**

The SSFA 1998 states that, subject to certain limited exceptions, no infant class with a single qualified teacher may contain more than 30 pupils, unless the additional child is an 'excepted pupil' as defined in the School Admissions Code.

Therefore, an AA must normally refuse to admit a child to a school if it would breach the infant class size limit and there are no measures it could take to avoid this without prejudicing the provision of efficient education or efficient use of resources.

### **32. When does the infant class size limit of 30 apply?**

The limit applies now but even if the infant class size limit is not reached in this school year but, by the admission of another pupil now, it would be reached in a subsequent infant class year, then the class size limit must apply now.

For example, a school publishes an admission number of 60, admitting 20 children to three Reception classes, which becomes two classes of 30 children in Years 1 and 2. Admission of a 61st child to Reception would lead to one of the Year 1 classes exceeding the infant class size limit unless the school takes relevant measures, therefore there would be infant class size prejudice.

### **33. Are all appeals for infant classes going to be "infant class size"?**

Not necessarily. Here are 5 examples:

- (i) If the Admission Number is 60 and the school organises as 2 classes of 30 Reception Year pupils then it will be an "infant class size" appeal.
- (ii) If the Admission Number is 33 and the school mixes the seven year groups into nine classes there will be 25 or 26 in each class and it will not be an "infant class size" appeal (but also see Example (iv) where several parents appeal).
- (iii) See example in Question 32, which is an "infant class size" appeal.
- (iv) If the Admission Number is 25 and the school teaches in single Year Groups and 10 parents appeal, in the first instance it would not be an "infant class size" appeal. However, if five appeals were allowed (following the process described in Question 35A) making the total number in that class 30 then at that point the Appeal Panel would have to consider the remaining appeals as "infant class size" appeals.
- (v) If your child could have been admitted as an excepted pupil in accordance with the School Admissions Code but the AA refused a place on the grounds that the admission of an extra pupil would prejudice the provision of efficient education or efficient use of resources it will not be an 'infant class size' appeal.

**Please note:** This does **not** mean that an Appeal Panel would definitely allow appeals just because the number has not reached the infant class size limit of 30. Other issues presented by the AA will be taken into account by the Appeal Panel such as room sizes.

### **34. How will I know if my infant class appeal is “infant class size”?**

The letter from the AA refusing you a place at the school should state that the refusal was as a consequence of the infant class size limits. It should also be clear from the AA’s case whether it is or is not an “infant class size” appeal. If it is unclear then you must prepare for both.

### **35. How does the Appeal Panel decide whether to allow or refuse my appeal?**

**A Where it is NOT an “infant class size” appeal the Appeal Panel normally has four things to decide in the following order:**

- (i) Do the admission arrangements comply with the mandatory provisions in the School Admissions Code or the SSFA 1998? If the Appeal Panel finds that the admission arrangements do not comply with the mandatory provisions and that your child would have been offered a place had the offending criterion not been applied, then it must allow your appeal unless a significant number of children are affected and admitting them all would cause serious prejudice. If it is not allowed on this ground, the Appeal Panel moves on to the next question;
- (ii) Have the admission arrangements been correctly and impartially implemented? If the Appeal Panel finds that the admission arrangements have been wrongly and/or unlawfully applied and, but for this your child would have been offered a place at your preferred school, then it must allow your appeal unless a significant number of children are affected and admitting them all would cause serious prejudice. If it is not allowed on this ground, the Appeal Panel moves on to the next question;
- (iii) Has the AA proved “prejudice to the provision of efficient education or the efficient use of resources”?
  - If you are the only person appealing: If the Appeal Panel find that the AA has not proved its case, your appeal will be allowed. If the Appeal Panel find that the AA has proved its case then it moves on to the next question.
  - Where there is more than one person appealing: If the Appeal Panel find that the AA has proved its case then it moves on to the next question. If the Appeal Panel find that all pupils could be admitted without the AA proving its case then all appeals will be allowed. If your appeal is not allowed at this stage then the Appeal Panel moves on to

the next question.

- (iv) Do your reasons outweigh the “prejudice to the provision of efficient education or the efficient use of resources”? The Appeal Panel will balance your reasons against the effect the admission of an extra pupil will have on the school.
- If you are the only person appealing: If the Appeal Panel find that your case is stronger than the case presented by the AA then it will allow your appeal. If the Appeal finds that your case is not stronger than the case presented by the AA then it will refuse your appeal.
  - Where there is more than one person appealing: The Appeal Panel will compare all cases individually with that of the AA. All cases not as strong as that presented by the AA will be refused. If there are several cases which are stronger than that presented by the AA and merit being allowed, but the Appeal Panel determines that the school could not cope with that number of successful appeals, then the Appeal Panel will then compare those cases and decide which of them to allow.

**B Where it is an “infant class size” appeal the Appeal Panel is only able to look at four factors.**

The Appeal Panel can only allow an “infant class size” appeal if one of the four factors stated below applies. Either:

- Factor 1 – whether the admission of an additional child would breach the infant class size limit; or
- Factor 2 – whether the admission arrangements comply with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998. If the AA did not follow these provisions then your appeal can succeed but only if your child would have got a place if the offending criterion had not been applied; or
- Factor 3 - whether the admission arrangements were correctly and impartially applied in the case in question. This is whether the AA kept to its own rules as set out in its admission arrangements. If the AA did not follow its own rules, either deliberately or by mistake, then your appeal can succeed but only if your child would have got a place at the school if the rules had been applied properly; and
- Factor 4 - whether the decision was not one which a reasonable admission authority would make in the circumstances of the case. This is whether the AA acted unreasonably. The law defines ‘unreasonable’ carefully in these cases. For the decision to be unreasonable it must ‘perverse in the light of the admission arrangements’, ie. it was ‘a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it.’

***Please note:*** You are free to talk about personal reasons **but** in this type of appeal the Appeal Panel will decide whether or not they are relevant to the four factors upon which an appeal can be allowed. If the Appeal Panel decides that the factors are relevant it can then consider how much weight to attach to those factors.

### **36. How will I find out the outcome of my appeal?**

You will be informed of the Appeal Panel's decision by a letter from the Clerk, which sets out the reasons for the decision.

At the hearing the Chair will tell you when you can expect to receive the letter. If your appeal is heard in the Autumn term you will normally be notified in writing within five working days.

However, during the Spring and Summer terms, when the majority of appeals are heard, the notification of decisions may take longer because the Appeal Panel normally has to hear all the appeals for a particular school before it is allowed to decide on any one appeal for a school. Some appeals for schools may take place over a full week or more.

### **37. If my appeal is refused can I appeal again?**

No. There is no appeal against the decision of the Appeal Panel.

However, if there are **significant** and material changes in the circumstances of the school or your circumstances (e.g. you move house, or a medical condition has arisen since you last applied), you have the right to re-apply for admission within the same academic year. Any request for a fresh application on these grounds will need to be made in writing detailing the reasons and including any supporting evidence and be made to the AA. If the AA accepts that you do have a right to re-apply but the school still cannot admit you, you have the right to a fresh appeal.

Also, you may re-apply in the following academic year and you have the right to a fresh appeal if it is still necessary because the year group is still full.

### **38. What can I do if I am unhappy about the appeal process?**

- (1) **Maintained Schools** - If you think that the proper procedures have not been followed in relation to a maintained school appeal you can ask the Local Government Ombudsman (LGO) to investigate. This is **not a right of appeal** as the LGO can only investigate written complaints about maladministration on the part of the Appeal Panel.
- (2) **Academies** – If you think that the proper procedures have not been followed in relation to an academy appeal you can complain to the school in the first instance about maladministration by the Panel, but not about its decision. If you wish to proceed with the complaint you can complain to the Education Funding Agency.

Maladministration means that there has been a fault in the way something has been done or not done. It has to relate to issues such as you believe the Panel has not been properly set up or has not followed procedures correctly. The LGO would not criticise the decision of an Appeal Panel which fairly took into account all the evidence presented by both the parents and the AA, just because one of the parties disagreed with the decision reached.

The LGO cannot overturn an Appeal Panel's decision; however, if, following investigations, the LGO finds there has been maladministration that might have caused you an injustice, one of the remedies s/he can suggest is that there should be a fresh appeal hearing with different Appeal Panel members.

### **39. Can I complain to the Secretary of State for Education?**

The Secretary of State cannot review decisions of individual Appeal Panels but can consider:

- Whether the Appeal Panel was correctly constituted; and
- Whether the AA has acted reasonably in exercising functions in respect of the appeal process or has failed to discharge any legal duty in relation to that process

### **40. What if I think that the decision of the Appeal Panel was wrong in law?**

If you or the AA consider that the decision of the Appeal Panel is wrong in law either of you could apply for a judicial review.

If a judicial review were granted the Court would consider the lawfulness of the Appeal Panel's decision. If it found the Appeal Panel's decision to be unlawful or unreasonable (irrational or perverse in the legal sense) it could overturn the decision, and it could order that a fresh appeal hearing be set up with new Appeal Panel members.

Only the Court can overturn an Appeal Panel's decision.

If any party to the appeal wishes to consider this course of action they should take independent legal advice **as soon as possible** as there is a time limit

**41. What should I do if my appeal has been refused and I do not want to send my child to the school that has been allocated?**

You can apply for another school, or more, and if these cannot admit any more pupils you have the right of appeal for a place at these other schools.

You should contact the AA as soon as possible to discuss your options as **you have a legal duty** to have your child educated.

**42. Will appealing affect my child's position on the waiting list?**

No, your child's position is not affected by appealing.

**43. What if I think my child has been discriminated against on the grounds of his/her disability?**

Appeals panels also deal with disability discrimination claims in relation to admissions decisions for maintained schools and Academies.

They cannot deal with discrimination claims in relation to any other protected characteristics; these are dealt with by the courts.

They cannot hear disability discrimination claims about admissions arrangements or about terms being placed on a person's admission; these are heard by Tribunals.

If you wish to appeal on these grounds please make this clear on your appeal form in order that the AA can prepare its case on the correct grounds. If you leave it to the hearing to raise this issue then the hearing will need to be adjourned to a later date.

**44. What if my child has a Statement of Special Educational Needs or an Education, Health and Care Plan?**

If your child has a Statement of Special Educational Needs or an Education, Health and Care Plan, please contact Information, Advice and Support Service (telephone 01325-405893) as a matter of urgency as your appeal must be made to the First-tier Tribunal (Special Educational Needs and Disability).

## APPENDIX

### Useful Contact Information

**Enquiries about this Guidance and the appeals process in Darlington should be addressed to:**

Clerk to the Independent Appeal Panel  
Democratic Services  
Neighbourhood Services and Resources Group  
Town Hall  
Darlington DL1 5QT

Tel: 01325 405801

E-mail: [education.schoolsappeal@darlington.gov.uk](mailto:education.schoolsappeal@darlington.gov.uk)

**Enquiries about other aspects of admissions and alternative school preferences should be addressed to:**

Schools Admissions Team  
Children, Families and Learning  
Town Hall  
Darlington DL1 5QT

Tel: 01325 405907 or 405909

E-mail: [schools.admissions@darlington.gov.uk](mailto:schools.admissions@darlington.gov.uk)

**OTHER USEFUL ADDRESSES:**

**ACE Education Advice can be contacted at:**

ACE Education Advice  
72 Durnsford Road  
London  
N11 2EJ

Tel: 0300 0115 142 (Mon–Wed 10.00am–1.00pm term time only)

Website: [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

E-mail: [enquiries@ace-ed.org.uk](mailto:enquiries@ace-ed.org.uk)

**Coram Children's Legal Centre can be contacted at:-**

Coram Children's Legal Centre  
Riverside Office Centre  
Century House North  
North Station Road  
Colchester  
CO1 1RE

Tel: 0845 345 4345 (Mon-Fri 9am-8pm; Sat 9am-12.30pm)  
E-mail: [info@coramclc.org.uk](mailto:info@coramclc.org.uk)  
Website: [www.childrenslegalcentre.com](http://www.childrenslegalcentre.com)

**Enquiries about the Information, Advice and Support Service should be addressed to:**

Information, Advice and Support Service  
Room 224  
Town Hall  
Darlington  
DL1 5QT

Tel: 01325 405878 or freephone 0800 9172121  
Email: [iass@darlington.gov.uk](mailto:iass@darlington.gov.uk)  
Website: [www.darlington.gov.uk/education-and-learning/special-educational-needs-and-disabilities/information,-advice-and-support-service-\(formerly-parent-partnership\)/](http://www.darlington.gov.uk/education-and-learning/special-educational-needs-and-disabilities/information,-advice-and-support-service-(formerly-parent-partnership)/)

**Equality Advisory Support Service (on matters relating to disability, race, age, gender, sexual orientation, religion and belief and human rights) can be contacted at:**

Equality **Advisory Support Service**  
FREEPOST EQUALITY ADVISORY SUPPORT SERVICE FPN4431

Tel: 0808 800 0082 (Mon-Fri 9.00am-8.00pm; Sat 10.00am–2.00pm)  
Textphone: 0808 800 0084  
Email and live chat: via website  
Website: [www.equalityadvisoryservice.com/](http://www.equalityadvisoryservice.com/)

**The Secretary of State for Education can be contacted at:**

Department for Education  
Piccadilly Gate  
Store Street  
Manchester  
M1 2WD



Tel: 0370 000 2288 (Mon-Fri 7am-8pm)  
Fax: 0161 600 1332  
Email: via the website  
Website: [www.education.gov.uk](http://www.education.gov.uk)

Department for Education publications:

Tel: 0845 602 2260

**The Local Government Ombudsman can be contacted at:**

The Local Government Ombudsman  
PO Box 4771  
Coventry CV4 0EH

LGO Advice Team Tel: 0300 061 0614 (Mon-Fri 8.30am-5.00pm)  
or text 'call back' to 0762 480 3014

Fax: 024 7682 0001  
Email: via the website  
Website: [www.lgo.org.uk](http://www.lgo.org.uk)

**The Stationery Office (formerly Her Majesty's Stationery Office) can be contacted at:**

Tel: 0870 600 5522  
Email: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)  
Website: [www.tso.co.uk](http://www.tso.co.uk)

**The Education Funding Agency can be contacted at:**

Academy Admission Appeal Complaints  
Academies Central Unit,  
Education Funding Agency  
53-55 Butts Road  
Earlsdon Park  
Coventry  
CV1 3BH

Email: [academy.questions@education.gsi.gov.uk](mailto:academy.questions@education.gsi.gov.uk)  
Webpage: [www.gov.uk/government/organisations/education-funding-agency](http://www.gov.uk/government/organisations/education-funding-agency)