

This is a draft document subject to parliamentary scrutiny. The final document must also be read alongside the School Admissions (Appeal Arrangements) (England) Regulations 2012, which will be published in 2012

## **THE STATUTORY BASIS FOR THE CODE**

This section explains who the Code applies to and when it comes into force. It will apply to all appeals lodged on or after that date. At present this date is left blank, as the new Code gives parents more time to lodge appeals, this is a crucial piece of information because if the date is in March – April next year it will effect all next years in round appeals.

## **INTRODUCTION**

The purpose of the Code is to ensure independence of appeal panels. It has the force of law and imposes mandatory requirements, the words must and must not are used. It is designed to give admission authorities the freedom to run appeals efficiently with the minimum of requirements. The guiding principle is the admission authorities are best placed to decide how to meet these requirements. The previous Code was a working document for Admission Authorities, clerks and panels this new Code leaves them with broad outlines and very little detailed guidance, this could result in differing practices from school to school and panel to panel.

## **SECTION 1 CONSTITUTION OF APPEAL PANELS**

Appeal panels perform a judicial function and must be transparent, independent and impartial. Two or more admission authorities may make joint arrangements for hearing appeals. (1-3)

### *Membership*

Lay members and people with experience in education as now and the admission authority must ensure that they retain their independence for the duration of their service. The Code removes the requirement for admission authorities to advertise and review panel membership every three years. The list of disqualified members includes a person employed by the local authority not just one employed in a capacity connected with education.

Where a panel starts with three members and one has to withdraw the panel must postpone the rest of the hearings until they return or if that is not possible rehear all the cases. (4-9)

### *Training*

Panel members and clerks must not take part in hearings until they have received training. Admission authorities must arrange and fund up to date training. (10)

### *The Clerk*

The clerk's role is to be an independent source of advice on procedures and admissions law. The clerk must provide an independent and impartial service; this Code removes the requirement that the clerk must be independent of the school or education authority, however to appoint a clerk in these categories would need to be considered carefully if the independence of the panel was to be preserved. (11)

### *The Chair*

A short 4-line statement replacing a half page in the last Code, moving away from their role of putting parents at ease by ensuring the hearing is conducted in an informal but structured way and that the admission authority do not participate beyond the scope allowed them. (12)

*Indemnity and Costs*

As in previous Code, the local authority must allocate reasonable funds to meet appeal costs and indemnify members of the panel against any reasonable legal costs (13-14)

**SECTION 2 APPEAL HEARINGS***Timetable*

Admission authorities must set a timetable that includes a deadline for lodging appeals which allows appellants at least 20 school days from the date of notification that their application was unsuccessful to prepare and lodge their written appeal and ensures that appellants receive at least 10 school days notice of their appeal hearing. This means that if the Code comes into force next year the first date that appeals for secondary schools can be heard will be 30 April and for primary schools 28 May. Admission authorities must also ensure appeals are heard within 40 school days of the deadline for lodging appeals. (1-3)

*Notifying appellants of their right to appeal*

This is very similar to the requirements in the previous Code, parents must appeal in writing and produce evidence on time if they want to guarantee it will be heard (4-7)

*Production of evidence from the admission authority before the hearing*

This section removes some of the requirements from the previous code in respect of providing specific information, co-ordinated scheme, net capacity and maps etc. It will be up to the school to ensure the information they provide makes the case that prejudice would occur if the child is admitted. The clerk must send the papers to all parties a reasonable time before the hearing but this is not defined. (8-9)

*Attendance and representation*

This is similar to the current Code but has removed the requirement for local authorities to fund translators and signers. (10-12)

*The hearing*

As now but the Code removes the requirement for a 'neutral venue other than a school' so presumably appeals could be held at the school. This will reduce appeal costs appeals but may compromise independence. (13-16)

*Multiple Appeals, guiding principles and reaching a decision*

Similar to current Code (17-22)

*Notification of decision and notes*

The decision letter must be signed by the clerk or the panel chair and be easily comprehensible to all parties. Again this section removes the specific requirements of the previous Code(23 – 26)

**SECTION 3 REACHING A DECISION**

This is a long section and although written in a different order than the previous Code is substantially similar. It gives both panels and clerks sufficient guidance to ensure the decision making process is correctly carried out. The guidance on evidence for upholding grammar school appeals is very clear.

#### **SECTION 4 INFANT CLASS APPEALS**

Again a section with clear guidelines the only omission is that there is no guidance or advice on how panels treat future breach of KS1 legislation appeals.

#### **SECTION 5 FURTHER APPEALS AND COMPLAINTS**

This section is substantially similar to the previous Code except it says complaints about Academies must be made to the Secretary of State not the Young Persons Learning Agency as detailed in Appendix 2

The Code has further sections about appeals by governing bodies against local authority decisions to admit twice excluded children, the Equality Act 2010, Human Rights Act 1998, SSFA 1998 and the Local Government Ombudsman

