

Lancashire County Council

School Appeals Traded Service from 1 April 2021 to 31 March 2022

Lancashire County Council's School Admission Appeals Service provides a highly professional and efficient service to the schools of Lancashire. Our team is committed to ensuring that all School Admission Appeals hearings are conducted fairly, equally and within the legislative framework, including any revised new or temporary legislation due to pandemic restrictions from the Government or the DFE.

School Admission Appeals is a specialist area and getting it right is vital to mitigating the risk of judicial challenge, time consuming complaints or reputational damage. We provide a comprehensive service which will ensure you comply with the Admission Appeals Code, meet statutory timelines and stay abreast of current legislation. We have the considerable experience and expertise in this often contentious specialist area to provide experienced support to all aspects of the administration of School Admission Appeals.

The appeals process needs to be independent from school admissions and the governing body, so cannot be undertaken by anyone in the employ of the school or anyone whose impartiality could be called into question in any way. School Admission Appeals take place at regular intervals, these are held at various venues or remotely due to Pandemic restrictions within Lancashire. The service will enable your school to access a comprehensive service that provides for all your needs.

Our Service

- Meets all the requirements of the School Admission Appeals Code and the Admissions Code, ensuring compliance with legislation and statutory guidance and any amended or temporary guidance in relation to the Appeals Code.
- Ensures all hearings take place within the timescales required by law.
- Ensures that a suitable panel of trained independent members hear the Appeal, including training members on any revised or temporary guidance relating to the appeals code.
- Ensures that the necessary information required by law is distributed to all parties.
- Ensures that a suitably trained clerk administers the process and that any decisions are recorded accurately and communicated to parents and the school without unnecessary delay.
- Can help your school to avoid significant risks, including legal challenges, by adopting a compliant Appeals process that reflects any ongoing changes to legislation and guidance.
- Save your school time, money and the risk of damage to reputation by dealing with your appeals in the correct way by complying with the appeals code and any relative legislation.

Any parent dissatisfied with an Admission Authority's decision to refuse a place for their child has the right to Appeal. This also includes any application refused by a Fair Access Panel and applies even if your school is undersubscribed. This right to

Appeal also applies at times other than the normal time of admission i.e. in year appeals

Under Section 94 of the School Standards and Frameworks Act 1998, the responsibility for making arrangements for Appeals against any decision made by, or on behalf of the Governing Body, refusing the child admission at the school rests with the Admission Authority.

These arrangements must be in accordance with the School Admission Appeals Code 2012, other law relating to admissions and relevant Human Rights and Equalities Acts and any amendments to those acts.

We know that there are many demands on schools, Head teacher's and Governing Bodies. Organising Appeal hearings is time-consuming, emotional and pressurized, with this in mind we will arrange your Appeals and relieve that pressure.

School Admission Appeals should work for the benefit of parents, children, school's Admission Authorities and Academies. The Appeal arrangements should be as simple and clear as possible for everyone involved in the process. It is particularly important that parents find Appeal arrangements easy to understand.

When a Governing Body is responsible for organising Appeals, it must bear in mind the fundamental objectives of admission Appeals that are laid out in the School Admission Appeals Code produced by the Department for Education (DfES): i.e. To provide an independent, impartial and informal forum for parents and the Admission Authority concerned to present their respective cases, and to be confident that they will be given a fair hearing;

- To ensure that Appeal Panels weigh up all the evidence presented to them carefully and objectively before reaching a final decision on the Appeal.
- To operate within education legislation (School Standards & Framework Act 1998) and also have regard to implications of other legislation such as (inter-alia)
- To ensure that Appeal Panels apply the principles of "natural justice";
- To have regard to all relevant guidelines in conducting Appeal arrangements, including the School Admission Appeals Code; School Admissions Code; and the Code of Practice on Identification and Assessment of Special Educational Needs; and any temporary guidance implemented by the government or DFE.
- To provide a system which is clear and consistent and easily understood by everyone involved;
- To ensure that from September 2001, (subject to certain limited exceptions), an infant class containing 5, 6 or 7-year olds may contain no more than 30 pupils with one teacher.
- The Admission Authority is also responsible for arranging appropriate training (including training relating to any temporary guidance as directed by the Government or the DFE in relation to the appeals code) for the Appeal Panel members.

The Codes issued by the Department for Education that we comply with

- **Education Act 2002 and Education Act 2011**
- **Education and Inspections Act 2006**
- **Education and Skills Act 2008**
- **Academies Act 2010**
- **Sex Discrimination Act 1975**
- **Race Relations Act 1976**
- **Disability Discrimination Act 1995**
- **Human Rights Act 1998**
- **Special Educational Needs and Disability Act 2001 and the Special Educational Needs and Disability Regulations 2014**
- **Freedom of Information Act 2000**
- **Equality Act 2010**
- **General Data Protection Regulation (GDPR) 2018**

The Secretary of State for Education considers that it is extremely important of Appeal Panel members, chairpersons, Clerks and presenting Governors to receive training. This should be carried out both before being appointed and afterwards, to ensure that necessary skills and knowledge are updated. This ensures that the fundamental objectives of School Admission Appeals are adhered to.

Admission Authorities are also required to indemnify the members of any Appeal Panel against any reasonable legal costs and expenses reasonably incurred by these members in connection with any decision or action taken by them in good faith whilst acting as members of the Appeal Panel. The School Admission Appeals Code recommends that Governing bodies should pay expenses at the rate set by the local Authority. Copies of these can be obtained upon request from Lancashire County Council, Appeals Team.

The School Admission Appeals team are highly trained in all aspects of Admissions law and will ensure that the process is transparent, accessible, independent and impartial and that Panels operate according to the principles of "natural justice".

Process of Organising Admission Appeal Hearings

It is the School's responsibility to prepare a Governors' Written Statement. This statement must include details of how the Admission arrangements and Co-ordinated Admissions Scheme apply to the appellants' application, the reasons for the decision to refuse admission and an explanation as to how the admission of an additional child would cause prejudice to the provision of efficient education or resources at the school.

A checklist and examples of a School's case is made available to you via the School's Portal if you choose to buy into the Service. The School Admission Appeals Service will undertake initial checks that all submitted documentation meets the minimum legal requirement and will remind admissions authorities of any missing information and ask for missing documentation if required i.e. school admissions policy etc.

The School Admission Appeals Service will check and lodge the parent's application and chase up any outstanding enquiries. A timetable will have been drawn up in advance with the hearing dates and cut off dates for the main intake relating to Reception and Year 7 intake. A schedule for the day will be sent to the presenting officer prior to the hearing.

The school retains the responsibility for ensuring documentation is complete accurate and supplied in a timely manner as Appeals have to be heard within a set timescale once an Appeal is lodged. It is important when preparing the written representations of the Governing Body that the school should include all the information and documents that will be relied upon during the Appeal Hearing.

It is the responsibility of the Admissions Authority to ensure that all relevant information is submitted with the admissions appeal and that the appeals team are not responsible if the admissions authority fail to include information that they deem vital to the admissions authorities' case.

Schools Responsibilities

- Pay all charges for the services agreed upon
- Arrange for a Governor or member of the school staff to present the school's case and be present throughout the hearing(s). The Presenting Officer must be prepared to answer detailed questions about the case being heard, including the admission Arrangements and Coordinated Admission Arrangements.
- Fill in and send through school contact details (Form B on School portal)
- Send a copy of the School's Admission Policy and a copy of the Governors' Written Statement to the School Admission Appeals Service (at least 15 working days before an Appeal date and any evidence supporting the Admissions Authority's case).

Basis of Charges

Charges for the SLA will be made annually year on year (during the period of August to November annually) by Legal and Democratic Services Staff.

If you decide that you wish to **opt out of the SLA** the Appeals Team will require in writing notice prior to the new financial year beginning on the 1st April each year.

The last date for notifying that you do not wish to opt into the SLA School Appeals Service must be made in writing by the 31st of March each financial year to the appeals team for the following financial year.

If appeals are required during the financial year and the Admissions Authority have not bought into the SLA the Appeals team will charge the Admissions Authority the PAYG rate for any service provided by the appeals team for that financial year.

Where a conversion takes place during the financial year for an Academy or Trust and a fee has already been charged to the School, the appeals team will honour the charge and allow the Academy or Trust Access to the Appeals SLA for the remainder

of the Financial year. Where no charge has been made and the school have converted part way through the financial year the school and Academy or trust will be charged pro – rata for the Service.

An offer to buy into the SLA for School Appeals will be accepted at any time of the year but the whole charge for that financial year will be applicable (**i.e. no part pro - rata charges will be accepted**).

School Appeals Package

Lancashire County Council, Appeals Team will:

Organise all School Admission Appeal Hearings in a fair, equal, independent and professional manner ensuring all relevant and current legislation and guidance is complied with and in particular:

- Check, lodge and process the completed Appeal forms.
- Collate all Appeal forms and organise convenient dates for Appeal Hearings in accordance to the designated time scales within the School Admission Appeals Code and any temporary guidance at that time.
- Organise the required number of independent and fully trained Panel member(s) to sit on the Appeal Panel (this person(s) will not have any involvement with the school.
- Organise for an independent and fully trained Clerk to attend the Appeal Hearing.
- Deal with any queries from the appellants with regards to their Appeal.
- Deal with any queries from the School with regards to the Appeal process.
- Inform the appellants of the date, time and format of their Appeal.
- Ensure that a suitable room which can seat comfortably all parties round a table is available in which the Appeals can be heard. Separate waiting areas will need to be available for each party, where possible and a large venue that can accommodate all appellants especially if Grouped Appeals are being heard.
- Where the format of the appeal does not require any Face to Face meeting the Appeals Team will ensure that the necessary Technology is in place to enable either written appeals or Conference Call Appeals to take place remotely and access to all relevant parties can access that Technology.
- Reschedule Appeal Hearings due to cancellations by parents or schools, as required.

- Upon receipt of Governors' case, check it meets the minimum legal requirement and ask for any missing documents.
- Send all relevant papers, including a copy of the School's Admission Policy, a copy of the Governors' Written Statement, copies of any accompanying papers and a copy of the parent(s) notice of Appeal form and accompanying submissions to all parties within the statutory time limits set out in the School Admission Appeals Code.
- Notify Panel members, Clerk, the School and parents of the names and categories of the Panel members hearing the relevant Appeal.
- Inform the parent(s) of the result of their Appeal. Parents will be notified of their result by a personalised decision letter. This letter will conform to the guidance in the School Admissions Appeals Code and any temporary guidance that applies at the time of the Admission Appeal.
- File and maintain all Appeal documentation in case of future queries or correspondence for 6 years
- Obtain legal advice before, during or after an Appeal as required.
- Review all procedures and paperwork regularly to ensure that they comply with any current and pending legislation.
- Provide the school with statistics on Appeals lodged, heard and results per academic year on request.
- The School Admission Appeals Service will legally indemnify Panel member(s) against any reasonable legal costs and expenses reasonably incurred by these members in connection with any decision or action taken by them in good faith whilst acting as members of the Appeal Panel, in line with the School Admission Appeals Code.
- In the event of a challenge from parents following a School Admission Appeal, the School Admission Appeals Service will provide all requested details to the Local Government Ombudsman/Education and Skills Funding Agency.
- The School Admission Appeals Service will try, where possible, to tailor these to meet your school's individual needs.

Panel Member Training

The School Admission Appeals Code is mandatory and states that Appeal Panel members cannot take part in Appeal hearings unless they have received up-to-date training on any aspect felt to be relevant to the functioning of the Panel. As a minimum, this must include the law relating to admission; their duties under the Human Rights Act 1998 and Equality Act 2010; procedural fairness and "natural justice"; and the roles of particular Panel members (for example, Chairing skills). The Local Authority or Governors in the case of Voluntary Aided, Foundation, Free Schools and Academies are responsible for providing this training and ensuring that Panel members appointed to hear an Appeal have undergone recent and regular training and any updated or temporary legislation in relation to all guidance where applicable.

The Schools Appeals Service has an ongoing training programme for all Schools Appeals Service staff, Appeal Panel Clerks and Panel members, the cost of which is included within the package. This ensures that all officers involved in setting up Appeals for your school remain completely up to date with legislation, case law and Guidance.

Independent Review Panel (Exclusion Reviews)

If a School's Governors uphold a pupil's exclusion a parent has a right to have this decision reviewed. This is done via an Independent Review Panel ('IRP') the authority for which is under section 7, 16 and 25 of the School Discipline (Pupil Exclusion and Reviews) (England) Regulation 2012. IRPs exist to ensure that the decision to uphold an exclusion was impartial and independent as there occasionally existing a close relationship between a Head Teacher and the School Governors.

An IRP consists of either 3 or 5 members appointed by the local authority being either a lay member, Head Teacher, Governor of a Maintained School, member of a Pupil Referral Unit or Director of the Proprietor of an Academy. None of the members may be directly involved with the relevant excluding school. The Local Authority will also appoint a clerk to the panel who will be able to advise the parties on the relevant law and procedure for review.

The role of the IRP is to review the governing body's decision not to reinstate a permanently excluded pupil. To do that the panel must consider the interest and circumstances of the excluded pupil including the circumstances in which the pupil was excluded. Regard must be taken to the interests of other pupils and staff of the school.

IRPs are an assessment of the decision made at the Governor's Disciplinary Hearing ('GDH'). Due to this they can be shorter in length than a GDH but are depend on the facts relating to each individual IRP.

The appeals team will ensure that all legislation and requirements are met to ensure that an IRP is carried out in the correct manor and will also arrange appropriate training for panel member's clerks to facilitate this role. The cost of the traded service will cover the arrangements to ensure that the IRP is facilitated within the specified dates and supply all paperwork to all parties in line with legislation.

The appeals team will also deal with any LGO or ESFA enquiries relating the IRP after the hearing.

Powers of an IRP

An IRP has the power to:

- Quash a Governor's Disciplinary Committee decision to exclude;
- Recommend the Governor's Disciplinary Committee reconsider their decision to exclude;
- Uphold the exclusion;
- Direct the Governing Body to place a note on a pupil's educational record; and/or
- Order the Local Authority to make an adjustment to the school's budget share for the funding period during which the exclusion occurs in the sum of £4,000 if, following a decision by the panel to quash the Governing Disciplinary Committee's original decision, the Governing Disciplinary Committee in

reconsidering the exclusion decide to not reinstate the pupil or fail to reconsider the exclusion within 10 school days

Key Points

Key things to remember about an IRP:

- You must request an IRP within 15 days of receiving the decision from the Governor's Disciplinary Hearing in writing and set out your grounds for why the review is sought.
- You can make a request for an IRP even if you did not make representation to the Governor's Disciplinary Hearing which originally heard the matter.
- When considering the governing body's decisions the panel should apply analysis in regards to tests of illegality, irrationality and procedural impropriety.
- If two or more applications for review to an IRP are connected there is potential to have a combined hearing for these reviews.
- If you believe there to be an element of Special Educational Needs ('SEN') which wasn't properly addressed at the Governor's Disciplinary Hearing you are able to appoint a SEN Expert for the IRP which must be made in writing to the Local Authority at the same time as you request a review.

Cost

The charge for this service is based on the size of school. The charging bands have been consulted upon, revised and agreed by the Lancashire School's Forum and this also is in line with other Traded Services offered to Lancashire schools.

Please note that this charge is based on the cost recovery of the service only.

Size of School	Cost to School for 2020-21 (Financial Year) £
Schools with less than 99 pupils	275
Schools with 100 – 199 pupils	500
Schools with 200 – 499 pupils	825
Schools with 500 – 999 pupils	1250
Schools with over 1000 pupils	1775
Pay As You Go Option Per Appeal	Cost to School for 2020 -21 (Financial Year) £
Admission Appeal (per pupil)	275
Independent Review of Exclusion	575

(per pupil)	
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Contact

For any additional information from the School Appeals Service please contact: the Appeals Team appeals@lancashire.gov.uk Tel 01772 536776 Jane Jackson.