



# Education Appeals

## School Admissions Appeals Guidance for appellants

**These notes provide general help and guidance for people attending a School Appeal arranged by the Education Appeals Secretariat at Havering. They are not a substitute for the relevant legislation, Codes or the policies of Admission Authorities.**

**If you have a specific query not covered in the booklet, please contact the Secretariat by telephone on 01708 433076 and we will do our best to help.**

***Published 2018***

<b>CONTENTS</b>		<i>Page</i>
<b>INTRODUCTION AND DEFINITIONS</b>		6
<b>WHY APPEAL?</b>		
1.	I thought I had the right to choose the school I wanted my child to attend?	7
2.	What is “prejudice”?	7
3.	How is “prejudice” proven?	7
4.	What if “prejudice” <u>is</u> proven?	8
5.	What is the “Published Admission Number”?	8
6.	The school has not reached its Published Admission Number yet my child has still been refused a place. Why?	9
7.	Why does the school take pupils from other boroughs in preference to my child?	9
8.	Do I have to come to the Appeal Panel hearing?	9
<b>CAN I APPEAL?</b>		
9.	My partner and I are separated. What are my rights to appeal?	10
10.	Are there circumstances where I do not have a right to appeal?	10
11.	My child has a Statement of Special Educational Needs. Can I still appeal?	10
12.	Can I appeal for my child to go to more than one school?	11
13.	I want to appeal on behalf of several of my children. Can my appeals be heard at the same time?	11
14.	What does my appeal need to contain?	12
<b>WHAT ARE THE ARRANGEMENTS?</b>		
15.	My child is over 16. Are there any special rules applying to his or her appeal?	13
16.	How long will I have to wait for my appeal to be heard?	13
17.	Where and when will my appeal be heard?	14
18.	Who will be at the Appeal hearing?	15
19.	Will the appeal be heard in public?	16
<b>ABOUT THE APPEAL PANEL</b>		
20.	Who are the Appeal Panel members?	16
21.	What powers does the Appeal Panel have?	17
<b>OTHER PEOPLE INVOLVED IN THE APPEAL HEARING</b>		
22.	What is the role of the Clerk to the Appeal Panel?	17
23.	What is the role of the “presenting officer” at the appeal hearing?	18
<b>ATTENDING THE APPEAL HEARING</b>		
24.	Should I attend the appeal hearing?	18
25.	What happens if I cannot, or do not want to, attend the hearing?	18
26.	What happens if I need an interpreter/signer or other help?	19
27.	Can I bring someone with me to help me present my case?	19
28.	Should I bring my son/daughter to the appeal hearing?	20
<b>I NO LONGER WISH TO APPEAL</b>		
29.	Can I withdraw my appeal?	20
<b>PREPARING FOR THE APPEAL</b>		
30.	Will I have any information about the Authority’s case before the appeal hearing?	20

31.	How can I find out how far I live from the school I want my son/daughter to go to?	21
32.	How can I prepare for the appeal hearing?	22
33.	Can anyone else help me with preparing for my appeal?	22
34.	If I get professional help in preparing for or presenting my appeal, can I get help in paying for it?	23
35.	What can I say at the appeal hearing?	23
36.	Does the Appeal Panel need any supporting evidence about my reasons for appealing?	23
37.	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?	24
38.	When should I provide my supporting evidence?	24
<b>THE APPEAL HEARING</b>		
39.	Grouped hearings	25
40.	How long does an appeal hearing take?	26
41.	What will happen at the appeal hearing?	26
42.	Why does the Chairman ask if I feel I have had an opportunity to say everything I want or need to?	27
43.	How does the Appeal Panel decide appeals?	27
44.	Does the Appeal Panel ever adjourn the appeal hearing?	28
45.	What should I do if I think the Authority has made a mistake in applying the admission criteria or the admission arrangements, including coordinated admission arrangements?	29
46.	When does the Appeal Panel make its decision if there are other people appealing for the same school?	29
47.	What does the Appeal Panel have to take into account in coming to its decision about my appeal?	29
48.	My child has a disability. How can I be sure there will be no discrimination?	30
49.	How will I find out the result of my appeal?	31
50.	Can I see the notes of my hearing?	31
<b>AFTER THE APPEAL</b>		
51.	If I win my appeal, when will my child start at the school?	31
52.	I won my appeal but my child cannot start on the expected date. What will happen?	32
53.	If my appeal is refused can I appeal again?	32
54.	What can I do if I am unhappy about the way the appeal <u>process</u> worked?	33
55.	I am applying for a place at a school (not an Academy). Can I complain to the Secretary of State for Education?	34
56.	What if I think that the decision of the Appeal Panel was wrong in law?	34
57.	What should I do if my appeal has been refused and I do not want to send my son/daughter to the school that has been offered?	34
58.	Will my child move up the waiting list if I appeal?	35
59.	What happens if a place becomes available at my preferred school after the appeal decision?	35
60.	What happens to my appeal papers after the appeal has been heard?	35

**APPENDICES**

<b>Appendix 1 – The appeal process (except for infant classes)</b>	<b>36</b>
<b>Appendix 2 – Grouped Appeals</b>	<b>37</b>
<b>Appendix 3 – Review of applications for admission to an infant class</b>	<b>39</b>
What is an “infant class”?	
Which year groups are infant classes?	
What is the limit to the number of pupils in an infant class?	
What does “qualifying measures” mean?	
When does the infant class size limit of 30 apply?	
Are all appeals for infant classes going to be affected by the “Infant Class Size” rules?	
How will I know if my infant class appeal is going to be affected by the “Infant Class Size” rules?	
How does the Appeal Panel decide whether to allow or refuse my appeal?	
The process for Infant Class Prejudice appeals	
<b>Appendix 4 – Appeals for admission to Academies</b>	<b>43</b>
<b>Appendix 5 – Appeals for admission to a Sixth Form (Years 12 and 13) in a School and by children aged 16 and over</b>	<b>44</b>
<b>Appendix 6 – Human Rights and the appeals process</b>	<b>45</b>
<b>Appendix 7 – Useful addresses</b>	<b>46</b>

## Introduction

Legislation requires every Admission Authority to make arrangements for enabling parents to appeal against decisions about the school at which their child is to be educated.

The Education Appeals Secretariat deals with all appeals for the schools for which Havering Council is responsible, for most Voluntary Aided and Foundation schools and for most Academies in Havering.

**This booklet explains how the appeals process works and will help you to appeal against an Authority's decision not to offer your child a place at your preferred school(s).**

This booklet is intended to help you understand:

- the appeal process and the different types of appeal;
- what will happen at an appeal hearing; and
- how the Appeal Panel will make its decision on your appeal.

### *Disclaimer*

While every effort has been made to ensure that this booklet accurately reflects the legal requirements of the Codes and other regulations and the policies of the Admission Authorities in Havering, in the event of any discrepancies becoming apparent the provisions of the Codes and policies prevail.

**Please note that this booklet is provided for guidance only. If you have any queries or doubts about any part of the process, please contact the Secretariat on 01708 433076, and we will be pleased to help.**

## Definitions

### In this booklet:

	<b>Means:</b>
Administrative Justice & Tribunals Council (AJTC)	A public body appointed by the Government to oversee a range of statutory tribunals dealing with appeals against official decisions. The Appeal Panel is overseen by the AJTC
Authority	The Admission Authority, which is: <ul style="list-style-type: none"> <li>Havering Council for Community Schools</li> <li>The Governing Body for Voluntary Aided and Foundation Schools and Academies</li> </ul>
Casual appeal	An appeal for a place in any year, other than for first admission to Reception at age 4/5, to Year 7 on Secondary Transfer at age 11 or to the first year of a school Sixth Form in September
Local Authority	Havering Council
Ombudsman	An independent official appointed by the Government to investigate complaints about local authorities and other public bodies (including Admission Appeal Panels). The Ombudsman cannot overturn a decision of the Appeal Panel, but can recommend that an appeal be re-heard if they considers that there was fault in the way in which an appeal was dealt with
Schools Adjudicator	An independent official appointed by the Government to look at schools' admission policies and arrangements
Secretariat (also "we")	The Education Appeals Secretariat
Education Funding Agency	An independent organisation that is used by the Secretary of State to investigate complaints about admission to Academies

## Frequently Asked Questions

### 1. *I thought I had the right to choose the school I wanted my child to attend?*

You are allowed by law 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 Authority need not meet your preference if the Year group for your child 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. *What is “prejudice”?*

“Prejudice” here means “put at risk”.

Essentially, “prejudice the provision of efficient education or the efficient use of resources” means that admitting more children would reduce the school’s effectiveness or efficiency as an educational institution. There are many ways in which this could occur. For example:

- teaching groups might become larger than one teacher can reasonably manage and the school might not have other teachers or teaching assistants available to help with the extra pupil(s)
- the health and safety of pupils might be put at risk because there are more pupils in a group learning a specialist subject than the teaching room (for example, a laboratory or information technology room) can safely accommodate
- more pupils might need to move through narrow corridors or passageways than can safely use them
- additional staff might be needed, for which the school has not budgeted and for which money cannot be found without reducing other educational services offered at the school

Human Rights legislation gives your child a right to be educated, but it does not give a right to be educated at a **specific** school – see Appendix 7 for more details.

### 3. *How is “prejudice” proven?*

If the Authority wishes to refuse your child a place, it must prove that admitting her/him would cause “prejudice”. It is not enough for the Authority simply to claim that there would be prejudice – it must explain to you and to the Appeal Panel how that prejudice would arise and demonstrate that nothing practicable can be done to avoid it.

Only the Appeal Panel can decide whether, in all the circumstances, admitting your child would result in “prejudice”.

You will be given the information that the Authority believes proves its case. This will normally be contained within the Authority’s statement but, occasionally, the Authority will produce additional documentary evidence to support its case. For most schools, the statement will usually be supplemented by an “impact statement” indicating the likely effect on the school of a further admission.

You have the right to challenge the accuracy of any information provided by the Authority or to question the Authority’s presenting officer on its detail. Please note, however, that the Appeal Panel does not have the authority to change the admission criteria; if you feel the criteria are unfair, you should contact the Schools Adjudicator for further advice (see Appendix 8).

#### **4. What if “prejudice” is proven?**

**Even if the Authority can prove that to admit your child would cause prejudice, it may still be possible for your appeal to succeed.**

The Appeal Panel will consider carefully not only the Authority’s case against your child’s admission but also your case for his or her admission. The Appeal Panel may decide that the school has not been able to show that there would be prejudice, in which case your child will be admitted. But if the Appeal Panel decides there would be prejudice if any child was admitted, it must then go on to “weigh” the Authority’s case and your case.

If the Appeal Panel concludes that your case is stronger than the Authority’s, then it will allow your appeal even though to do so will cause prejudice.

#### **5. What is the “Published Admission Number”?**

**The Published Admission Number is the agreed number of pupils that a school can admit each Year. It is the only measurement of a school’s ability to admit pupils that Appeal Panels can take into account.**

The Published Admission Number is a measurement of the capacity of a school to accept pupils, and is the number used for admission and admission appeals purposes. It takes into account a number of factors, including the number and sizes of classrooms and other teaching facilities, the number of teachers employed at the school and the other resources available to it.

The Published Admission Number varies between schools and can, sometimes, vary between years within a school. Regular reviews of schools’ Published Admission Numbers can result in changes.

**6. *The school has not reached its Published Admission Number yet my child has still been refused a place. Why?***

Normally, the reason for refusal will be that the school's Published Admission Number has been reached. Very occasionally, however, admission may be refused even though the number of pupils in the Year Group is below the Admission Number.

This will generally be because the school believes that admitting the individual pupil would cause "prejudice" for some other reason – for example:

- your child might want to pursue specific GCSE options that the school cannot support (perhaps because his or her subject options follow curricula that are not offered at the school applied for)
- your child might have a history of challenging behaviour for which the school you have applied for cannot offer support

**Please note that if the Authority wishes to rely on this sort of argument, it must still prove that "prejudice" would arise if your child were to be admitted.**

**7. *Why does the school take pupils from other boroughs in preference to my child?***

The law does not generally permit an Authority to restrict admission to pupils from a particular borough or county (other than for some faith schools, where the admission criteria may refer to specific church-related boundaries, such as particular parishes).

**9. *My partner and I are separated. What are our rights to appeal?***

As a general rule, the right to appeal rests with the parent or other person who has legal parental responsibility for a child, or both where parental responsibility is joint. The Secretariat is not in a position to determine questions of parental responsibility: that is a complex legal matter, ultimately to be decided by the Court.

When appeals are processed, the Secretariat must always assume that the parent who has signed the appeal has done so on behalf of both (where there are two). The school pupil database may not always contain details of everyone who has parental rights and it is neither practicable nor appropriate for the Secretariat to check whether the person submitting the appeal actually has parental rights.

If parents are separated, it is always helpful if they tell the Secretariat that from the outset, particularly if their views about the future education of their child or children differ.

In the absence of evidence to the contrary, we have always to assume that both parents want, and have agreed, to appeal. Where parents' views do differ, they are entitled to tell the Appeal Panel that. The Appeal Panel will consider both

points of view and reach a decision; but its decision will relate solely to the issue of whether the child should be admitted to a particular school: it cannot make decisions that must only be made by a Court, such as where a child should live, nor will it normally adjourn a hearing while a Court decides such issues.

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

**Yes.**

Special rules apply where a child has been permanently excluded from two or more schools (irrespective of the Authority maintaining the school). If you think this may apply to your child, please contact the Secretariat for advice.

**11. *My child has a Statement of Special Educational Needs. Can I still appeal?***

**If your child has a Statement of Special Educational Needs, please contact the Secretariat on 01708 433076 as a matter of urgency as your appeal can normally only be dealt with by the First Tier Tribunal (Special Educational Needs & Disability)(which is not administered by the Education Appeal Service).**

**12. *Can I appeal for my child to go to more than one school?***

**Yes.**

If you would like your child to be considered for admission to more than one school, you are free to apply for his or her admission to as many schools as you wish. If that application is refused, you have the right to appeal.

How we handle an appeal for more than one school depends upon how many schools you appeal for and whether any of them is a Voluntary Aided or Foundation school.

Wherever possible, we will arrange for all of your appeals to be heard at the same session but this is unlikely to be possible where:

- your appeal relates to admission in the following September to Reception Year or to Year 7 on transfer from Year 6
- you are appealing for admission to more than one Voluntary Aided or Foundation school

**Please note that, in law, your appeal is FOR the admission of your child to a particular, named school. It is not an appeal AGAINST him or her going to, or continuing to attend, a particular school. It is important therefore that, if you appeal for admission to more than one school, you bear in mind that you need to present specific reasons for your child to go to EACH of them.**

However many schools you appeal for, your child can obviously only attend one of them. The Appeal Panel will take into account any preference you may express between the schools you have appealed for but, as it must also take account of the respective schools' cases against admission, it may well be that, if your appeal succeeds, the school to which the Appeal Panel decides to admit him or her will not be your first preference.

**There is, of course, no guarantee that any of your appeals will succeed.**

**13. *I want to appeal on behalf of several of my children. Can my appeals be heard at the same time?***

**Possibly.**

Your appeal for each child is separate from any of the others.

Wherever possible, however, we will arrange for all of your appeals to be heard at the same session but this is unlikely to be possible where:

- any of your appeals relates to admission in the following September to Reception Year or to Year 7 on transfer from Year 6
- you are appealing for admission to more than one school
- you are appealing for a mixture of schools for your children – for example, one is seeking a secondary school place and another, a primary school place

You **MUST** indicate clearly on the appeal forms which child is to be considered for which school.

The Appeal Panel has to consider many factors in coming to its decisions on appeals for several children from one family. There can be no guarantee that any of the appeals will succeed, nor that if one does succeed, others will not be refused. Each appeal is dealt with and considered on its individual merits, separately from the others, and all circumstances mentioned to the Appeal Panel are taken into account.

**14. *What does my appeal need to contain?***

**The Authority will provide to you an official appeal form. You do not need to use that form to make your appeal but it will make dealing with your appeal easier if you do use it, and ensure that you provide all relevant information.**

You must provide:

- your child's name, date of birth and home address
- your contact details
- **a statement of grounds for your appeal**

**An appeal is not validly made unless it includes the grounds on which you are making it. Appeals that do not give grounds cannot be processed until**

**a statement of grounds is provided – in particular, the period within which the appeal must be heard (see question 16) will not start until you have given your “grounds”.**

Your grounds for appeal do not need to be complicated: a simple statement, briefly explaining why you are appealing, is enough so long as it enables the Authority and the Appeal Panel to understand why you want your child to attend the school(s) for which you are appealing.

You are not obliged to provide supporting evidence; but it will be easier for the Appeal Panel and the Authority to understand the basis of your appeal if you do provide evidence in advance of the hearing. Evidence can include:

- medical evidence, not only about your child’s health but about that of other members of the family, including yourself, if you think that it might be relevant (but please note: to be useful, medical evidence needs to include details of the specific diagnosis and not just be a general statement of health)
- letters from social workers or family support workers
- letters from your child’s existing school, for example where there is a bullying problem
- letters from organisations that have dealings with your child, for example a youth organisation such as Scouts or Guides, a sports club or a private provider of tuition

**Please note that, in law, your appeal is FOR admission of your child to a particular, named school. It is not an appeal AGAINST him or her continuing to attend a particular school. It is important therefore that you bear in mind that your case must indicate why your child should go to the school(s) you are appealing for.**

**15. *My child is over 16. Are there any special rules applying to his or her appeal?***

**Yes.**

Children who are 16 or over have a right of appeal in their own right. That right can be exercised whether or not their parents also appeal; and the grounds of appeal – and even the school(s) appealed for – do not have to be the same. Where possible, however, both the parents’ and the child’s appeals will be dealt with together.

The appeal can be for admission to Year 11 in Secondary School, or the Sixth Form (Years 12 and 13) of a **School or Academy** that has one (appeals for admission to the Sixth Form College or another institution of Higher Education are outside the scope of this appeals system).

An appeal by a child over 16 is dealt with in exactly the same way as an appeal by parents: the same processes, timescales and criteria apply to both types of appeal.

See also Appendix 5 of this booklet.

### 16. *How long will I have to wait for my appeal to be heard?*

**We arrange appeals as quickly as possible after receiving them but a wait of at least several weeks is inevitable.**

The Code sets out time limits for the hearing of appeals as follows:

- **Secondary transfer admissions** – appeals for “on-time applications” (those relating to decisions sent on the national offer date, generally 1 March) must be heard by 5 June (or the previous working day, if 5 June falls at a weekend). The Secretariat arrange hearings generally from late April until early June there may, therefore, be some time between your appeal being received and it being heard.
- **Reception admissions** – appeals for on-time applications must be heard by 22 July (or the previous working day, if 22 July falls at a weekend).
- **Sixth Form appeals** – appeals for admission to a sixth form at a school or Academy cannot be made until GCSE results are available. In the interests of avoiding unnecessary delay, appeals will be dealt with speedily, in early October.
- **Secondary transfer and Reception admissions: appeals for late applications** – if possible such appeals will be included with those being heard for the same admissions round. However, if this is not feasible, we will ensure that they are heard before the end of the summer term.
- **Casual appeals (those made in-year other than for admissions to Reception or to Year 7 on transfer from Year 6)** – hearings must be held within 30 school days of the appeal being lodged. We arrange hearings sessions as and when needed.

Note: “School days” means Monday to Friday when schools are open. Weekends, bank holidays and Christmas, Easter, Summer and half-term holidays do not count.

An indicative timetable, giving the likely dates of appeal sessions and the deadlines relating to them is available on the Council’s website at

[https://www.havering.gov.uk/info/20006/schools\\_and\\_education/481/appeal\\_for\\_a\\_school\\_place](https://www.havering.gov.uk/info/20006/schools_and_education/481/appeal_for_a_school_place)

Appeals for admission to a Year (other than Reception Year or Year 7) with effect from the start of the next school Year will be heard within 30 school days of receipt. The appeal will, however, be decided on the basis of the current circumstances at the school and therefore cannot take into account any changes that might occur between the appeal date and the start of the new school Year.

We will give you as much notice as possible of the date and time of your appeal (unless you have asked for an appeal as a matter of urgency and waive your right to the full notice). Casual appeals (including those being re-heard) are dealt with strictly in order of receipt and it is not possible to give particular appellants preferential treatment.

**If for some reason the date we give you is inconvenient for you, you should notify the Secretariat of that and we will do our best to allocate a fresh time and date as soon as possible. We cannot however guarantee that, if you ask for a different date, the hearing will take place within the relevant timescale mentioned above.**

**17. *Where and when will my appeal be heard?***

Generally, appeals for schools in Havering are heard at Havering Town Hall, Main Road, Romford RM1 3BD. Public “pay and display” parking facilities are available at the Town Hall – you must pay to park, as there is no exemption for people attending appeal hearings. Since a parking space cannot be guaranteed, you may find it preferable to park elsewhere or to travel other than by car.

Wherever you park, you should allow sufficient time for your appeal to be heard when paying. We cannot guarantee that your appeal will be heard at the appointed time or be finished by a specific time. We are not responsible for any additional or penalty payment you may incur if your appeal takes longer than expected and you overstay your parking time as a result.

Occasionally, some other venue may have to be used and, if that applies in your case, we will tell you so. But appeals are never held at the school for which you are appealing nor at the offices of the Council’s Children’s Services.

Wherever your appeal is heard, the procedure will be the same – see the answers to questions 40 – 43 (on pages 26/27) and appendix 1 (page 36).

Appeal Panels normally sit between 9.30am and 5.30pm to hear a number of appeals. See question 16

**Please note that, generally, appeals cannot be heard sooner than about a month after they are received by us; and it may take longer than that, especially if the appeal is received between mid-June and September.**

It is not possible to arrange appeal sessions in the evening, at weekends, on bank holidays or during the Christmas, Easter, Summer and half-term holidays.

**18. *Who will be at the Appeal Hearing?***

- You and anyone you choose to ask to accompany you

- **The Appeal Panel (3 members)**
- **The Clerk to the Appeal Panel**
- **The presenting officer from the Admission Authority; and possibly a representative of the school such as the Headteacher or Deputy Headteacher, or senior teacher, or a Governor.**
- **Sometimes, a legal adviser may also need to be present to assist the Appeal Panel**
- **An observer may be present**
- **Nobody from the public will be present**

Some appeals are dealt with under a grouped arrangement – see Question 39 and Appendix 2. We will tell you if your appeal is to be held under a grouped arrangement.

**In grouped appeals, a number of other parents will also be at the first part of the hearing.**

**Very occasionally, there may be an observer present. This may be someone from a statutory body which has a supervisory role in the appeal process, or someone carrying out an appraisal for personal development purposes of the Appeal Panel members; or it may be someone who is training to be an Appeal Panel member, Appeal Panel Clerk or presenting officer.**

**You have the right to refuse to allow such an observer to be present while your appeal is heard.**

## **20. *Who are the Appeal Panel members?***

**The Appeal Panel will have three members:**

- One will be “experienced in education”: that is, he or she will be familiar with educational conditions in the Authority’s area, perhaps as a teacher or school governor, or be a parent of a registered pupil at a school (but not the one(s) for which you are appealing); and
- One will be a “lay person”, that is, someone without personal experience in the management of any school or the provision of education in any school (other than as a school governor or in any other voluntary capacity);

The Chairman of the Appeal Panel will be from either of the above two categories.

Appeal Panel members are recruited by public advertisement and voluntarily give their time to sit on appeals. They have received training appropriate to the role. The Appeal Panel members hearing your case will have been selected to serve from the pool of trained Appeal Panel members and will have no connection with the school(s) for which you are appealing, or the Council.

We take the role of Appeal Panel member very seriously. As part of their on-going training, every Appeal Panel member is subject to regular appraisal to ensure that all their training needs are met.

When we notify you of the appointment for your hearing, we will tell you who will be the three Appeal Panel members hearing your case. If you think you recognise any of the names as a friend or acquaintance, please tell the Secretariat **immediately** as it is inappropriate for someone you know, or who knows you, to hear your case.

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

**The Appeal Panel can either refuse or allow your appeal. It has no other power.**

However, as part of the appeal process, the Appeal Panel must consider if the Authority's admission arrangements have been properly applied.

If the Appeal Panel finds that your child would have been offered a place if the published admission arrangements had been properly implemented, your appeal **must** be allowed.

If the Appeal Panel considers that the school's admissions criteria may be unlawful, it has a legal duty to report upon them to the Schools Adjudicator. But even if the Appeal Panel considers the criteria unlawful, it **MUST** decide your appeal on the basis of the existing admission criteria and the facts and evidence presented to it.

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

**The Clerk is present to ensure the appeal is conducted fairly and to make the formal, "official" record of the proceedings and advise on legal procedure**

The Clerk has no say in the Appeal Panel's decision but is there to:

- explain the basic procedure and deal with any questions you may have about it
- ensure the relevant facts are established
- make sure each party is heard in turn
- be an independent source of advice on the law and procedures
- make a written record of the proceedings, decisions and reasons
- after the appeal, notify all concerned of the Appeal Panel's decision

The Secretariat also arranges hearings, appoints Appeal Panel members to hear appeals and deals with any correspondence relating to appeals, both individually and generally.

Please note that tape recording of the proceedings, whether by you or by the Clerk, is never permitted.

**23. *What is the role of the “presenting officer” at the appeal hearing?***

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

The presenting officer is responsible for explaining why the Authority believes a place cannot be offered to your child at your preferred school. They will present the case on behalf of the Authority at the appeal hearing about the school and answer any questions raised by you or the Appeal Panel members.

**The presenting officer (and anyone else representing the Authority or the school) will enter and leave the room at the same time as you.**

**24. *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 Appeal Panel make an informed decision. Also, in the same way, you can ask the presenting officer questions about the Authority’s case. To ensure a fair hearing, the presenting officer may ask you questions about your reasons for appealing.

**25. *What happens if I cannot, or do not want to, attend the hearing?***

**If you cannot attend a hearing on the appointed date or at the appointed time, let the Appeals Secretariat know as soon as possible so that an alternative appointment can be arranged for you.**

If you do not want to attend the appeal at all, it will normally be considered on the basis of “written representations”. The Appeal Panel will still meet but it will consider only the written case put forward by the Authority and your appeal (and any supporting evidence). **The Authority will not be allowed to be represented if you are not going to attend a “written representations” hearing.**

Therefore, it is vital that you make sure the Appeal Panel has all the letters and documents you wish it to consider. All of these must be sent to the Appeal Clerk to arrive before the appeal hearing. The Clerk will return any documents that you ask to be returned to you with the decision letter.

**If you find near to the date of the hearing, or even on the day itself, that you cannot attend for some unexpected reason, please contact the Secretariat as it may be possible to re-arrange the hearing for a later time or another day if you wish to be present when the appeal is considered.**

**Please note that, if you fail to attend on the appointed day and do not let us know that you cannot attend, the Appeal Panel will consider your appeal in your absence. Moreover, if your appeal has been adjourned once and you fail to attend when it is re-arranged, the appeal will normally be dealt with in your absence. Unlike a hearing by “written representations”, a hearing in the circumstances above will take place with the presenting officer representing the school.**

**26. *What happens if I need an interpreter, signer or other helping understanding what is going on?***

**You may have an interpreter or signer at your appeal hearing.**

Please contact the Secretariat to arrange this free of charge, if you so wish, **at least a week** before the appeal hearing.

Alternatively, if you prefer, you may arrange (at your own cost) for someone to come with you to interpret or sign for you.

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

**You may bring a member of your family, a friend, a 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.**

Although you have a right to be represented, it will not normally be necessary for a solicitor or other advocate to represent you as this is not a court of law and we aim to keep the appeal hearing as informal as we can. **The Secretariat is unable to arrange for you to be represented or to contribute to any costs you may incur in being represented.**

You can organise your presentation to the Appeal Panel in any way you wish but it is unlikely to be necessary for witnesses to attend. The Appeal Panel may consider it appropriate to allow witnesses who do attend to give evidence, provided that it is relevant and not repetitive.

If you wish, you may be accompanied by a Choice Adviser, a locally elected politician, or an employee of the Council such as an educational social worker, SEN adviser or learning mentor, **provided that this will not lead to a conflict of interest.**

**Please note, however, that some Havering Councillors are unable to attend nor may an employee of the school in question attend, as their doing so would lead to a conflict of interest for the individual Councillor/employee in question. If you are in any doubt about this, please contact the Secretariat for further advice.**

**28. *Should I bring my son/daughter to the appeal hearing?***

**Whether or not you bring your child to the hearing is up to you.**

You should bear in mind, however, that things are likely to be said in the course of a hearing that a child – particularly one of primary school age – could find hard to understand, or upsetting.

Please note also that there are no crèche/nursery facilities at the Town Hall so you will need to make your own child-care arrangements for any young children. Older children are welcome to wait for you in the designated waiting room but please note that it is not possible for the Secretariat or other staff at the Town Hall to supervise them.

**Furthermore, Appeal Panels rarely find it helpful to see photographs of the children for whom appeals are being made.**

If you do bring your child into the hearing, it is your responsibility to ensure that they do not misbehave or cause disruption.

**29. *Can I withdraw my appeal?***

**Yes. You can withdraw your appeal at any time.**

You can withdraw the appeal before the hearing by telephoning the Secretariat and then confirming it in writing to the Clerk to the Appeal Panel.

You can also withdraw it at the hearing.

**However, if you subsequently wish your appeal to be reinstated you will normally be expected to show good reason why it should be; for example, because there has been a significant change in your circumstances. So please give the matter careful consideration before you do withdraw your appeal.**

If you accept the offer of a place at another school before your appeal is heard, you may nevertheless continue with your appeal. If you decide not to appeal, please notify the Secretariat as appeals are not automatically cancelled when an alternative offer is accepted – and the Secretariat may not even know of the other offer.

**30. *Will I have any information about the Authority's case before the appeal hearing?***

**You will be sent the case for the Authority stating why your child could not be allocated a place at your preferred school.**

This will usually be sent to you at the beginning of the appeal process but in any event be sent at least seven days before the hearing.

**If you think you have not received a statement from the Authority, or cannot find it, please contact the Secretariat as soon as possible so that a further copy can be sent to you.**

**31. *How can I find out how far I live from the school I want my son/daughter to go to?***

**Please note that the following advice is given for information only. If you have any doubt about the accuracy of the measurement of distance from your home to the school, please contact the Secretariat for further advice.**

If you have internet access, you can find out the approximate distance between your home and the school, using a similar process to that used by the Admission Authority, by going to the Havering Council website – simply go to <http://maps.havering.gov.uk> . When the page opens:

- Type in postcode in “Location” search bar above map
- Scroll and select house name/number
- Click “Find my nearest”
- Under “Education Establishment” choose type of school (primary, secondary etc)
- List of schools appear with closest first and furthest last
- Distance is **straight** line distance and measured in **metres**

**If you do not have internet access, you can get help from Havering’s Library Service: go to your local library and ask the staff there to help you by following the advice given in this answer.**

**32. *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, as set out in this booklet
- Make a note of any questions you may have about your appeal
- Make sure you have looked at the Authority’s case before the appeal hearing and that you understand it
- Make a note of any questions you would like to ask the presenting officer about the Authority’s case
- Spend some time deciding what you would like to say when the Appeal 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 that you send to the Appeal Secretariat copies of all the paperwork to support your appeal such as letters from your doctor,

confirmation of completion of your house purchase or a rental agreement (if you have only recently moved, or are about to move, house), or any other documentation you feel may support your case.

- On the day of the appeal hearing, bring with you to the appeal: the Authority's case papers, which were sent to you in advance of the hearing; your supporting letters and documents; notes of any questions you may have; and this guidance.

**Please ensure you send in your evidence well in advance of the hearing; although the Appeal Panel may be willing to consider late papers, it is obviously better if the Appeal Panel members have the opportunity to go through your case papers before the hearing.**

**33. *Can anyone else help me with preparing for my appeal?***

**In the first instance, please contact the Secretariat on 01708 433076 for help with any general queries or concerns you may have.**

If you would like further advice or information, the Advisory Centre for Education (ACE) is an independent national education advice centre which provides information on the education system. ACE operates a national advice line and produces a wide range of publications. – Appendix 7

Especially helpful is a booklet called "Appealing for a school", which provides advice on the appeals system and also gives advice on what to do if your appeal is unsuccessful.

A list of useful contact addresses is given in Appendix 7 of this booklet.

**34. *If I get professional help in preparing for or presenting my appeal, can I get help in paying for it?***

**No. Neither the Authority nor the Secretariat can help meet any cost you incur in connection with the appeal, whatever the circumstances.**

**35. *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 members of the Appeal Panel will want to be certain that you do not leave your appeal thinking that things have been left unsaid and don't repeat yourself too much.

**The members of the Appeal Panel can only make their decision on the information they have been given; so make sure you tell them what you think**

may be relevant and important about your case, even if you are unsure how relevant other people might think it is.

**Please note, however, that references to the school’s academic record or to your child’s academic ability or SATs results WILL NOT be taken into account as, under the comprehensive education system applying to all schools in Havering, admissions cannot be based on those factors.**

If your child is on the school’s waiting list, that fact, and his or her position on it (and the position of any other child on it), are not relevant to the appeal and the Appeal Panel will not discuss those issues or take account of them.

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

Yes.

**However, if it is for an infant class place, please also read Appendix 3.**

- If your case is based on medical or social grounds, whether of your child or anyone else in the family, you should provide written evidence from a doctor or other relevant professional, such as a social worker or health visitor, to support it. **The evidence should include either a firm diagnosis of a medical condition or an assessment of social circumstances and indicate why that diagnosis or assessment means that your child ought to go the school(s) you are appealing for.**
- If your case is based on a house move you should provide confirmation of exchange of contracts for, or evidence of the completion of, your house purchase; or a tenancy agreement; or any other relevant documentation from an independent source, such as your solicitor or the letting agent

*Please note that evidence that you have put in an offer to buy a house that has been accepted, or that you are “buying, subject to contract”, is unlikely to be considered strong enough to be accepted as confirmation of a change of address*

- If part of your case for seeking a new school for your child is dissatisfaction with the current school, for example because your son/daughter is being bullied, you should provide evidence such as letters of complaint and other correspondence. **The fact that you are unhappy with your child’s current school will not be sufficient on its own to enable your appeal to succeed.**
- It is especially helpful if you can supply to the Appeal Panel statements about the effects of any bullying on your child’s health or behaviour from independent sources such as your doctor or a behavioural counsellor, or written information from the Headteacher or another appropriate teacher at the existing school describing what they have been doing about the bullying
- You are also invited to put forward any letters, reports or documents, or any other evidence that you think will support your case

- If your argument is that the original admission process was in some way faulty, you will need to prove that to the Appeal Panel and produce supporting evidence for the Appeal Panel members to consider

**37. *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. The Appeal Panel cannot accept or take into account unsolicited evidence provided after the hearing has taken place.

**38. *When should I provide my supporting evidence?***

If you have any supporting letters or documents to submit in addition to that information disclosed with your appeal form, then it must be passed and have arrived with the Education Appeal Secretariat at least nine days before your appeal hearing. The Education Appeal Secretariat will inform you in writing of the deadline date for the submission of additional evidence when it notifies you of your hearing date.

Any written information supplied after the deadline will not be presented to the Appeal Panel. It will be for you to explain to the Panel on the day of the appeal hearing why the additional evidence should be accepted. The Appeal Panel does not automatically have to accept any late evidence that is submitted. It may decide to adjourn your appeal so that they, and the Authority representative, have the opportunity to read this additional evidence to ensure that they give it proper consideration.

If you have to bring papers to the hearing, it would be helpful if you could ensure that you have **five copies** of each document (three for the Appeal Panel members, one for the presenting officer and one for the Clerk).

**39. *Grouped hearings***

**The legal requirements for school admission appeals allow two forms of hearing: grouped hearings and individual hearings. Most hearings in Havering are dealt with individually, but some schools may opt for grouped hearings.**

Both forms of hearing are broadly similar: the admission authority puts the school's case and can be questioned about it; the parents put their case, and

can be questioned about it; and both sides have an opportunity to sum up their positions before the Appeal Panel comes to a decision.

Members of the Appeal Panel can ask questions at any time.

With individual hearings, all this is done in a single session, separately for each parents' appeal.

With grouped hearings, there are two sessions: first, the school presents its case at a session attended by a number of parents; then each parents' case is heard individually. The individual sessions will take place some time after the session at which the school's case was presented, possibly several weeks later.

We will tell you if your appeal is to be dealt with at a grouped hearing.

For more information, please refer to Appendix 2.

#### **40. How long does an appeal hearing take?**

**Each appeal is considered individually. Experience has shown that most take no more than about half an hour or so; but there is no time limit, so do feel free to take as long as you feel you need to make your case. It is very important that you tell the Appeal Panel all you think they need to know about your child. You will not normally get another chance to do so!**

**You should arrive at least 15 minutes before your appointment time. The Clerk, or another member of the Education Appeals Secretariat, will speak to you before your appeal starts in case you have any last minute queries about anything at all.**

**There could, however, be either a delay before your turn is reached. So far as possible, you will be kept informed of any delays and when it is likely that your turn will be reached but we cannot guarantee to be able to do so.**

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

**We try to make appeal hearings as informal as possible and ensure that both you and the presenting officer have the same opportunities to speak.**

The order in which things will happen at the hearing is generally as follows:

- **The Chairman will introduce the Appeal Panel members, presenting officer (and anyone accompanying her/him), the Clerk and anyone observing the hearing**

The procedure is as follows:

- **The presenting officer will present the school's case**
- **You and the appeal panel will have opportunity to ask any questions you/they have about the school's case**
- **You will present your case for your child's admission to the school**
- **The presenting officer and appeal panel will ask you any questions about your case**

- **The presenting officer will have an opportunity to sum up the school's case**
- **You will have an opportunity to sum up your case**
- **The Chairman will close the hearing**

The Clerk may occasionally need to ask questions of either you or the presenting officer in order to clarify issues for the record.

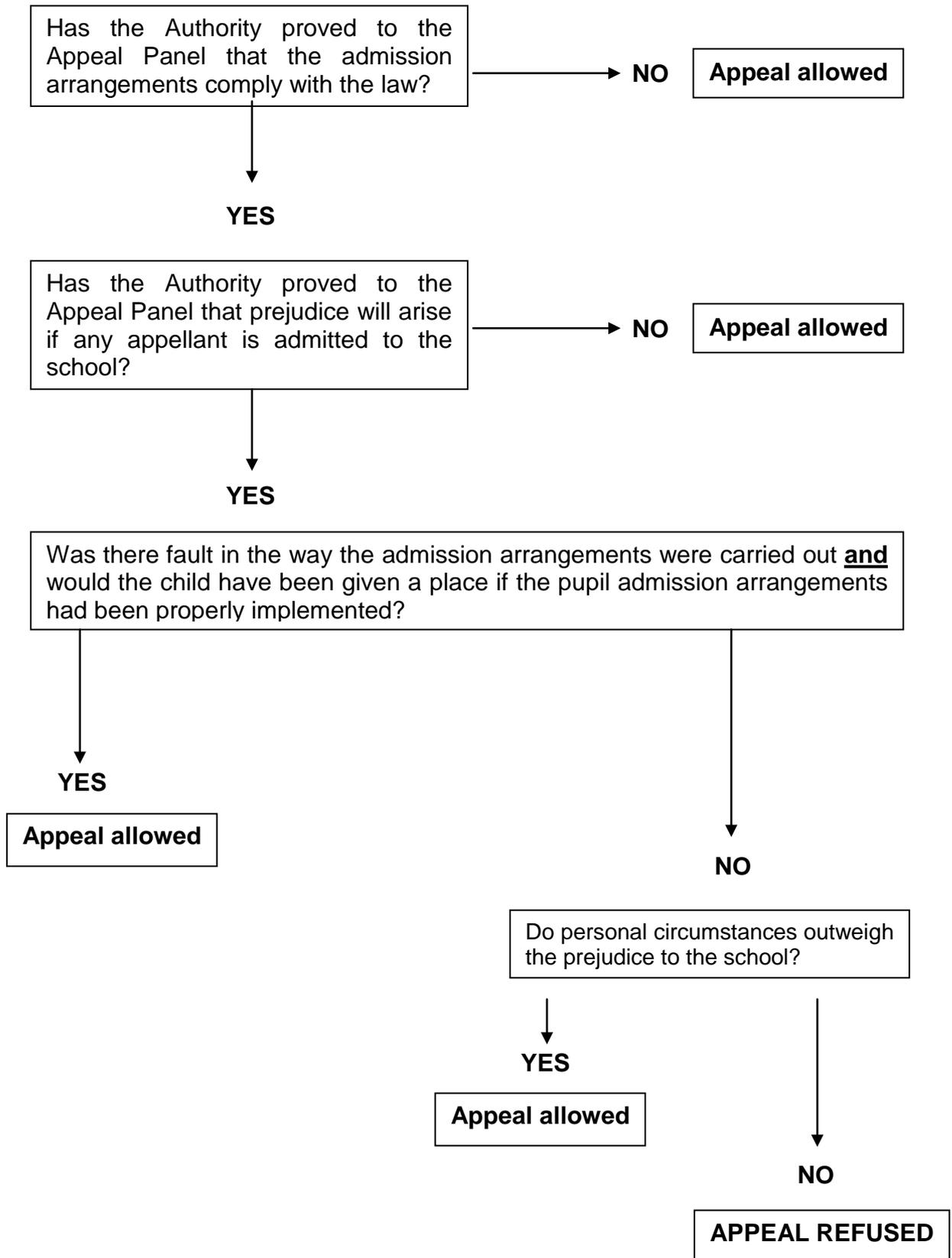
Once your hearing is finished, the presenting officer (and anyone accompanying her/him) will leave, as will you and anyone with you.

**The Appeal Panel will not announce the result of your appeal at or after the hearing; you will be notified in writing at a later date. We are unable to advise appeal results over the telephone or, other than in exceptional circumstances, by email.**

***42. Why does the Chairman ask if I feel I have had an opportunity to say everything I want or need to?***

The members of the Appeal Panel want to be sure that everyone has the opportunity to present their case in the way they want. The Appeal Panel also want to be sure that you feel you have the opportunity to say everything you need to. If you do not think that that you have had an opportunity to say all that you wished to, please tell the Chairman so that it can be put right immediately.

***43. How does the Appeal Panel decide appeals?***



**44. Does the Appeal Panel ever adjourn an appeal hearing?**

**Yes.**

The Appeal Panel may adjourn an 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 and it is 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 coming to a decision; or
- If the Appeal Panel requires further information to be obtained by the Authority 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 considers it would be fairer to adjourn that appeal or any other appeal to a later time or another day; or
- If an Appeal Panel Member is, or becomes, ill or is absent; or
- For any other appropriate reason.

**45. *What should I do if I think the Authority has made a mistake in applying the admission criteria or the admission arrangements, including coordinated admission arrangements?***

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

For example, if you think that the Authority has not measured the distance between the school and your house correctly, you can query this both before and/or at the appeal hearing.

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

**46. *When does the Appeal Panel make its decision?***

**Decisions are not normally made on individual cases until all parents have been involved in all stages of the process, or an injustice could result.**

The Appeal Panel will reach a decision either at the end of your hearing (where yours is the only appeal for a particular school and year group being considered) or after hearing all appeals if there are other appeals for the same school and year group.

However, in very exceptional circumstances, for example if a particular hearing is adjourned or 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 appellants.

**47. What does the Appeal Panel have to take into account in coming to its decision about my appeal?**

The Appeal Panel must take into account your preference of school, the reasons for your preference, and the admission arrangements and criteria published by the Authority.

The Authority is not required to comply with your preference if:

- your child has been permanently excluded from two or more schools; or
- to admit your child “would prejudice the provision of efficient education or the efficient use of resources”.

**In the case of infant classes**, “prejudice” may also arise because of “qualifying measures” required to be taken to comply with the limit on infant classes. Where the Authority makes its case on this basis it is known as an “Infant Class Prejudice” review – see Appendix 3.

**48. My child has a disability. How can I be sure there will be no discrimination?**

**The Equalities Act 2010 forbids schools from discriminating against disabled pupils and prospective pupils in their access to education, including admissions.**

The Authority and schools:

- **must not treat disabled children less favourably** than other pupils, or prospective pupils, for a reason relating to their disability without justification, and
- **must make reasonable adjustments** to ensure that disabled pupils, or prospective pupils, are not placed at a substantial disadvantage compared with non-disabled pupils.

There are two exceptions to the “reasonable adjustment” duty. Schools are not required to:

- provide auxiliary aids or services; or
- remove or alter physical features.

**It is not discrimination if, at the time you applied for admission, the Authority did not know and could not reasonably have been expected to know, that your child was disabled.**

**Therefore, the Appeal Panel will consider whether:**

- the admission criteria have been applied correctly and impartially;
- the pupil is disabled as defined by the legislation
- the pupil has been discriminated against for a reason that relates to the disability;
- the school has taken reasonable steps to try and provide for that pupil;
- and

- **the adjustments required would be unreasonable in terms of cost and the efficient education of other pupils.**

In considering these appeals, the Appeal Panel must take into account the Equality & Human Rights Commission's guidance in their Code of Practice for Schools.

**49. *How will I find out the result of my appeal?***

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

**Decision letters are normally sent by Special Delivery post and will need to be signed for.**

The decision letter will arrive no more than 7 days after the appeal.

However, during the Spring and Summer terms, when the majority of appeals are heard, the notification of decisions can take longer because the Appeal Panel has to hear all the appeals for a particular school before it can decide on any appeal for that school. Some appeals sessions for particular schools can last for two weeks or more.

**Please do not telephone the Clerk or the Secretariat to ask for the result: we are not allowed to give out information about appeal results over the telephone.**

If there is likely to be a delay in sending to you the full notice of decision, we will send you an interim notice – saying simply whether or not your appeal has succeeded – within a couple of days of the hearing.

Occasionally, the Post Office is unable to deliver letters sent by Special Delivery post; addressees are then asked to collect their letters from the Sorting Office or to re-arrange delivery but letters not subsequently collected or re-delivered are then returned to us. Where we receive letters in such circumstances, we forward them on to the addressee by ordinary post – but that means you may well not receive that letter until a month or more after the hearing.

**50. *Can I see the notes of my hearing?***

**You may see – or ask for a copy of – the Clerk's notes of the hearing. These will be the handwritten notes taken by the Clerk of the part of the hearing at which you were present. You are not entitled to be given the notes of any other part of the hearing.**

**51. *If I win my appeal, when will my child start at the school?***

**That depends upon the type of appeal you have made.**

If you have appealed for admission to Year 7 at Secondary School transfer or to the Sixth Form, your child will be expected to start at the beginning of Autumn Term in September.

If you have appealed for admission to the Reception Year, your child must start on or before the date on which he or she reaches compulsory school age.

If you have made a casual appeal, your child will generally be expected to start at the school soon after you receive notice of the outcome of your appeal. We will let you know the expected start date when we tell you that the appeal has succeeded.

**52. *I won my appeal but my child cannot start on the expected date. What will happen?***

**If your child cannot start on the expected date, you MUST let the school know as soon as possible.**

Your child will be on the school's roll from the expected start date. Unless a different date is agreed with the school, your child's absence might be treated as unauthorised and that could lead to legal action being taken against you.

If it is agreed that your child cannot start on the expected start date, the place may be held for a reasonable time (depending on the circumstances) but cannot be held indefinitely and there is a risk it could be withdrawn. If the place were withdrawn, you would have to appeal again if no place was available at the school when you re-applied for admission.

**53. *If my appeal is refused can I appeal again?***

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

You may, however, be able to have a second appeal in respect of the same school and the same academic year, if *either*:

- (a) the Authority agrees to arrange a second appeal because faults in the first appeal may have significantly affected the outcome e.g. the appeals process was not properly conducted or significant evidence which had been submitted was not forwarded to the Appeal Panel (this may be on the recommendation of the Ombudsman or because the Authority decides to do so on its own initiative);

*or*

- b) the Authority considers a further application because of a significant and material change in the circumstances of the parent, child or school, but refuses it. The Authority may consider a fresh application due to changes in circumstances since the original application was made include medical reasons or that the family has moved house. **YOU MUST APPLY TO THE AUTHORITY FOR ADMISSION BEFORE YOU CAN SUBMIT AN APPEAL.**

**For advice as to whether your changed circumstances might be “significant” or “material”, please contact the Education Appeals Secretariat .**

Applications and appeals are dealt with on the basis of the “academic year” (that is, the period between 1 September in any year and 31 August in the next year). Even if your application and appeal are refused in one academic year, you have the right to apply again in the next academic year (and you may apply before that year actually begins – but see Question 16). You then have the right to a fresh appeal if you are refused a place again.

Please note that if you are appealing for a place for your child for first admission to the Reception Year of primary education, on transfer from Year 6 to Year 7 or for admission to the Sixth Form, the relevant academic year is the one in which your child is due to start at the new school, not the academic year in which your application and appeal are dealt with.

**54. *What can I do if I am unhappy about the way the appeal process worked?***

**If you think that the proper procedures have not been followed, first please contact the Manager of the Education Appeals Secretariat, explaining what you think went wrong. Please do this by letter or email (to [debra.marlow@onesource.co.uk](mailto:debra.marlow@onesource.co.uk)), giving as much information about what you believe was the fault as you can.**

The procedure to follow depends on whether you are applying for a place at a school, or at an Academy.

*For schools:*

At any time up to a year after the hearing you can ask the Ombudsman to investigate. This is **not** a right of appeal as the Ombudsman can only investigate written complaints about **maladministration** on the part of the Appeal Panel.

“Maladministration” means that there has been a fault in the way something has been done or that something that should have been was not done. It has to relate to issues such as whether the Appeal Panel was properly set up or failed to follow procedures correctly.

*For Academies*

The Secretary of State will arrange to investigate whether there was anything wrong with the process. This is **not** a right of appeal as the Secretary of State can only consider whether anything was wrong with the way in which your appeal was dealt with.

The Secretary of State and Ombudsman will not criticise a decision of an Appeal Panel that took into account fairly all the evidence presented by both the parents and the Authority, just because the parents disagree with the decision reached.

**If, following investigation, the Ombudsman or Secretary of State finds there has been maladministration that might have caused you an injustice, one of the remedies he can suggest is that there should be a fresh appeal hearing with different Appeal Panel members.**

**55. *I am appealing for a place at a school (not an Academy). Can I still complain to the Secretary of State for Education?***

**Yes.**

The Secretary of State cannot review decisions of individual Appeal Panels but can consider whether the Appeal Panel was correctly constituted; and whether the Authority has acted reasonably in exercising functions in respect of the appeal process.

If, for example, the Appeal Panel did not follow the legal proceedings, the Secretary of State could direct for a new appeal with a new panel.

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

**If you or the Authority or the School Governing Body consider that the decision of the Appeal Panel is wrong in law, any one of you could apply to the High Court 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), or had not followed a fair procedure, it could overturn the decision and order that a fresh appeal hearing be set up with new Appeal Panel members.

**If you wish to consider this course of action you should take independent legal advice as soon as possible as any claims must be made promptly and no later than 3 months from the date of the decision.**

**57. *What should I do if my appeal has been refused and I do not want to send my son/daughter to the school that has been offered?***

**You can apply for his/her admission to one or more other schools, and if any of them cannot admit any more pupils you have the right of appeal for a place at that other school.**

You should contact School Support and Pupil Services as soon as possible as **you have a legal duty** to ensure that your child has an education.

**58. *Will my child move up the waiting list if I appeal?***

**No.**

Your child's position on the waiting list is not affected by appealing.

**59. *What happens if a place becomes available at my preferred school after the appeal decision?***

**If your child's name is top of the waiting list, he or she will be offered that place. Otherwise, once the number of pupils in a year group drops below the Admission Number for that year, further pupils will normally be admitted up to that Admission Number.**

School Support and Pupil Services will contact you if a place becomes available for your child.

However, if the year group is still full during the same academic year, you would not be entitled to another appeal in these particular circumstances.

**60. *What happens to my appeal papers after the appeal has been heard?***

**If you ask the Secretariat to return any papers, we will send you the original papers once the appeal has been heard. We will keep a copy of them.**

We have to keep a copy of all papers for at least two years after the hearing, to enable the Secretariat to respond to enquiries by the Local Government Ombudsman or Secretary of State. We may retain those copies in paper, electronically or by both means. When we dispose of paper copies, we shred them or dispose of them as "confidential waste".

We do not usually keep paper copies for more than about two years after the end of the school year for which you were seeking admission of your child. There are, however, a few instances (for example, if there has been an Ombudsman's or Secretary of State's investigation or court action) where it may

be necessary to for the Secretariat to retain copies for a longer period or indefinitely.

## **APPENDIX 1 – GROUPED APPEALS**

Anything in the school's case that concerns only you or your child will be dealt with privately during your individual hearing.

Once the session at which the school's generic case is presented has taken place, we will send out the papers that are relevant to your appeal alone (including anything you have previously supplied); this will include the notes of the presentation of the school's generic case and any questions dealt with during it. These papers will be referred to at your individual hearing.

### **A *What is the procedure for a grouped hearing?***

You will be invited first to attend a session at which the authority's case will be put to the Appeal Panel. There will be a number of other parents present as well.

The Chairman of the Appeal Panel will introduce those present and outline the purpose of the session and what will happen during it.

The authority's Presenting Officer will then present the case against admitting more pupils to the school. There may also be a member of the school's teaching staff or governors present, who is there to support the Presenting Officer with details about school routines etc. The authority's case at this stage will **not** deal with individual issues – it is concerned solely with factors affecting everybody.

**All parents present will then have the opportunity of asking any questions about the school's case. Please note that, at this stage, you should not ask questions that relate to your (or your child's) personal circumstances: the opportunity for that will come later, when your individual hearing takes place.**

Members of the Appeal Panel will be also able to question the Presenting Officer.

If there is more than one session, the same case will be presented at each, the same Appeal Panel members and clerk will be present and notes will be taken.

Once the grouped sessions have been held, a composite note of the proceedings of each of them will be sent to all of the parents who are appealing (together with other relevant paperwork).

### **B *What if I do not, or cannot, attend the grouped session?***

If you do not attend the session, or any of them if more than one is held, you will be unable to hear the authority's generic case or to put questions to its Presenting Officer about it.

You will, however, be sent the written case for the authority and notes about what was said at the sessions, which you can use when it comes to your individual hearing.

### **C *What will happen at my individual hearing?***

The school will not present its *generic* case again: that will have been dealt with at the original session. If, however, there are elements to the school's case that are personal to you, the school will have the opportunity of presenting them. If there are such elements, you will be able to ask the Presenting Officer questions about them.

You will then have the opportunity to present your case for your child's admission.

## **APPENDIX 2 – REVIEW OF APPLICATIONS FOR ADMISSION TO AN INFANT CLASS**

### ***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.

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

Normally infant classes are those in the Reception Year 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.

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

The School Standards and Framework Act 1998 states that, subject to certain limited exceptions, no infant class with a single qualified teacher may contain more than 30 pupils.

Therefore, an Authority may refuse to admit a child to a school if it judges that, in order to do so, it would have to breach the limit on infant class sizes.

### ***What does “qualifying measures” mean?***

“Qualifying measures” are considered to be measures required to be taken in order to ensure compliance with the statutory limit on infant class sizes. This may include the need to employ an additional qualified teacher, or the need to build an extra classroom, or the need to mix year groups.

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

**When there are 30 children in a class.**

***Are all applications for infant classes going to be affected by the “Infant Class Size” rules?***

**Not necessarily.**

It depends on a variety of factors such as:

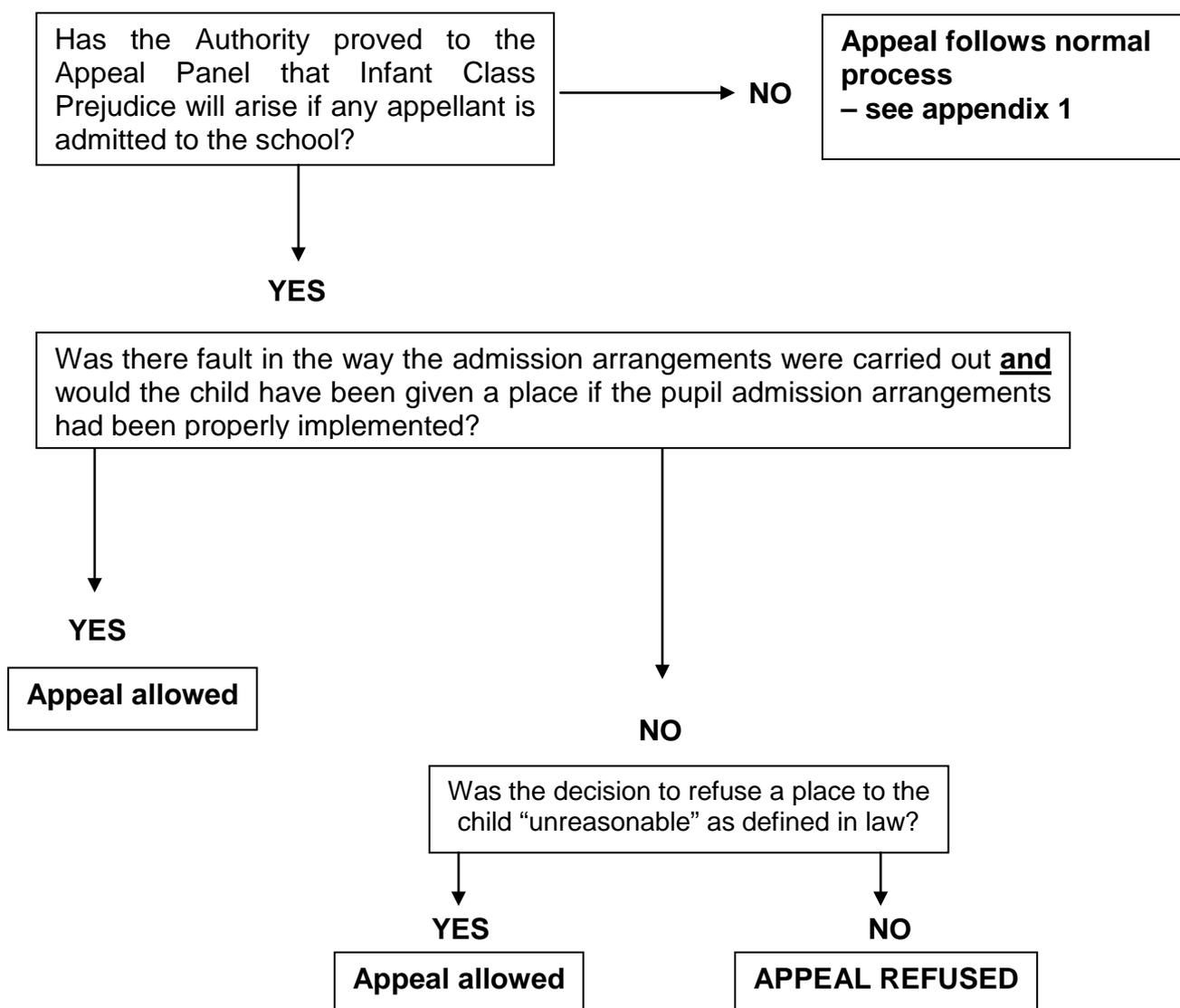
- the numbers admitted to the school;
- whether or not the pupils are taught as single Year Groups or mixed with other Year Groups; and
- how many other parents are appealing.

Therefore, it is **very important** that you read this Appendix very carefully! If you are still unsure, please contact the Educational Appeals Secretariat for advice.

***How will I know if my infant class application is affected by the “Infant Class Size” rules?***

When the Authority’s case papers are sent to you (as explained in Question 30), they will indicate whether it is affected by the “Infant Class Size” Rule, usually by referring to the legislation that limits the size of Infant Classes.

**HOW DECISIONS WILL NORMALLY BE MADE WHERE INFANT CLASS SIZE LIMITS APPLY: THE PROCESS FOR INFANT CLASS PREJUDICE APPEALS**



#### **APPENDIX 4 – APPEALS FOR ADMISSION TO ACADEMIES**

Legally, schools and Academies have different status but that does not affect admissions issues.

The procedure for dealing with appeals for admission to an Academy is the same as that for admission to a school. The only difference comes should you be unhappy with the outcome of your appeal. Academy appeals are not dealt with by the Local Government Ombudsman but by the Secretary of State.

As with the Ombudsman, however, the Secretary of State cannot overrule a decision of the Appeal Panel. He can, however, recommend that the appeal be re-heard if, following investigation, it is apparent that there was some fault in the way in which the appeal was dealt with.

It is probable that the Secretary of State will ask the Young People's Learning Agency to investigate any complaint on his behalf.

#### **APPENDIX 5 - APPEALS FOR ADMISSION TO A SIXTH FORM (YEARS 12 AND 13) IN A SCHOOL AND BY CHILDREN AGED 16 AND OVER**

**Note: This advice relates to appeals for admission to the sixth form of a SCHOOL or ACADEMY in Havering. It does not relate to admission to the Sixth Form College or other institutions of Higher Education at the age of 16 plus.**

The law enables:

- Children to express a preference as to the school at which they wish to receive sixth-form education; and
- Children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school, to express a preference as to the school at which they wish to receive education other than school sixth-form education.

These new children's rights are **in addition** to the rights of the children's parents to express a preference as to the school at which they wish them to receive education.

**In relation to these rights, references in this booklet to “appellant” etc should be read as applying to both parents and children who are entitled to exercise the right of appeal.**

It should be noted that, where both parents and child exercise their rights, arrangements will be made if practicable for both appeals to be heard together, even if the appeals by parents and child are on different grounds. Where there are differences of view between the parent and the child, the Appeal Panel will take that into account when reaching its decision.

## **APPENDIX 6 – HUMAN RIGHTS AND THE APPEALS PROCESS**

The Human Rights Act 1998 (“the Act”) incorporated into United Kingdom law the provisions of the *European Convention on Human Rights (ECHR)*.

Article 2 of the First Protocol of the ECHR says:

*“ARTICLE 2 RIGHT TO EDUCATION*

No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.”

The Act requires the State, in the form of the central Government and Local Authorities, to provide education. This is done through Community, Voluntary Aided and Foundation Schools, and Academies. The Act does NOT require the State to provide particular types of school, nor guarantee that every parent will be able to arrange for the admission of their child to any particular school.

The appeals process in Havering is administered in conformity with, and subject to, the Act and the ECHR and the rights they confer.

Appeal Panels also take into account, where relevant, the rights conferred by the Equality Act 2010 and related or similar legislation.

## **APPENDIX 7 – USEFUL ADDRESSES**

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

**Education Appeals Secretariat**

Legal & Governance  
Town Hall  
Main Road  
Romford RM1 3BD

Tel: 01708 433076  
Fax: 01708 432424

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

**School Support and Pupil Services**

Mercury House  
Mercury Gardens  
Romford  
RM1 3SL

Tel: 01708 434600

**OTHER USEFUL ADDRESSES:**

**Advisory Centre for Education**

72 Durnsford Road  
London  
N11 2EJ

Tel: 0300 0115 142  
Website: [www.ace-ed.org.uk/advice-about-education-for-parents](http://www.ace-ed.org.uk/advice-about-education-for-parents)  
Email: [enquiries@ace-ed.org.uk](mailto:enquiries@ace-ed.org.uk)

**The Equality and Human Rights Commission**

Arndale house  
The Arndale centre  
Manchester  
M4 3AQ

Helpline: 0808 800 0082  
Textphone: 0808 800 0084  
Telephone 020 7832 7800 (non-helpline calls only)

Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)  
Email: [eass@mailgb.custhelp.com](mailto:eass@mailgb.custhelp.com)

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

Piccadilly gate  
Store Street  
Manchester  
M1 2WD

If you would like to ask someone at the Department about school admissions please contact their National Enquiry Unit as follows:  
Tel: 0370 000 2288

Website: <https://www.gov.uk/contact-dfe>

Copies of the DCSF Codes may be obtained from:

**School Admissions Code of Practice**

<https://www.gov.uk/government/publications/school-admissions-code--2>

**School Admission Appeals Code of Practice**

<https://www.gov.uk/government/publications/school-admissions-appeals-code>

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

Commission for Local Administration  
Advice Team  
PO Box 4771  
Coventry  
CV4 0EH

Tel: 0300 061 0614  
Website: [www.lgo.org.uk](http://www.lgo.org.uk)  
Email: [advice@lgo.org.uk](mailto:advice@lgo.org.uk)

**The Office of the Schools Adjudicator**

Office opening times: Monday - Thursday 8:00am - 16:30pm; Friday - 8:00am - 16:00pm

Mowden Hall  
Staindrop Road  
Darlington  
DL3 9BG

Tel: 01325 735303  
Email: **OSA.TEAM@osa.gsi.gov.uk**

**Her Majesty's Stationery Office:**

The Stationery Office Ltd  
PO Box 29  
Norwich NR3 1GN

Tel: 0333 202 5070  
Website: [www.legislation.hmso.gov.uk](http://www.legislation.hmso.gov.uk)  
Email: [legislation@nationalarchives.gsi.gov.uk](mailto:legislation@nationalarchives.gsi.gov.uk)

**Education and Skills Funding Agency:**

Website: <https://www.gov.uk/government/organisations/education-and-skills-funding-agency>

The addresses and contact details for all Schools in Havering are given in the brochures about admissions to both Primary and Secondary Schools, available from School Support and Pupil Services.