

## **APPEALS AGAINST ADMISSION DECISIONS**

### **INTRODUCTION**

1. The School Standards and Framework Act 1998 (the Act) gives parents/carers the right to express a preference for the school they wish their child to attend and to state the reasons for their preference. Local Authorities, and governors of Academies, Foundation, Foundation Trust, Trust, Voluntary Aided schools where they are responsible for school admissions, must comply with a parental preference for admission to a particular school unless doing so:
  - Prejudices the provision of efficient education or the efficient use of resources. A child may not be refused admission to a school for this reason if admissions have not reached the school's Admission Number;
  - Is incompatible with any admission arrangements agreed between the governors and the Local Authority
2. All schools must make arrangements for parents/carers to appeal if they are dissatisfied with an admission decision. The constitution and procedures of Appeal Panels are laid down in the Act which states that the decisions of Appeal Panels are binding on the school and the Local Authority.
3. Different provisions and appeal arrangements apply to admissions to special schools or to children who have an Education & Health Care Plan. If you need information about these arrangements, please contact the Barnet SEND Team on [SENAdmin@Barnet.gov.uk](mailto:SENAdmin@Barnet.gov.uk) or contact them through their Local Offer website on <https://www.barnetlocaloffer.org.uk/enquiries/new>
4. You should read this in conjunction with the London Borough of Barnet Secondary Admissions Guide <https://www.barnet.gov.uk/schools-and-education/school-admissions/applysecondary-school/transferring-secondary-school> which gives general information about admission arrangements in Barnet and provides information on the admission policies for schools within the Local Authority.

### **HOW TO APPEAL AGAINST AN ADMISSIONS DECISION**

5. Parents/carers have the right to express a preference for the school they wish their children to attend. Parents/carers can indicate preferences for more than one school and place them in an order of priority, if they so wish. Where parents express a number of preferences in priority order, it is London Borough of Barnet's policy to try to offer to parents not granted their first preference, an alternative that they accept, unless they are already attending a school.
6. If you are dissatisfied with The Totteridge Academy's final decision you can appeal against the decision to an Appeal Panel. The timescales for appeals to be heard are as follows:
  - For applications made in the normal admissions round appeals must be heard within 40 school days of the deadline for lodging appeals.

- For late applications appeals should be heard within 40 school days from the deadline for lodging appeals where possible or within 30 school days of the appeal being lodged.
  - For applications for in-year admissions appeals must be heard within 30 school days of the appeal being lodged.
7. When The Totteridge Academy's final decision has been taken, you are told why your preference cannot be agreed, and are normally given at least 20 days in which to appeal. An appeal form is provided to help you make an appeal. If you wish to appeal, you should complete the attached form and send it to [admissions@tta.org.uk](mailto:admissions@tta.org.uk) . The appeal form gives you the chance to state the reasons/grounds why you wish your child to attend the Academy.

If you wish to provide any documents to support your case, copies should be attached to the appeal form before sending it to the Admissions Officer. If these documents are not available at the time, copies must be provided to the Clerk to the Appeal Panel by the date provided in the notification letter sent out by the Clerk to the Appeal Panel. Information or evidence not submitted by that date might not be considered at the appeal. An Appeal Panel makes the decision whether any evidence not submitted by the date is to be considered, taking into account its significance and the effect of a possible need to adjourn the hearing. Copies of your appeal form and any documents will be made available to the Appeal Panel members and to the Officer who will be presenting The Totteridge Academy's case at the appeal hearing.

8. The Totteridge Academy will refer your appeal to LB Barnet Governance Service who deal with school admission appeals for the Academy and who will arrange for your appeal to be considered by an Independent Appeal Panel. The timescales for appeals to be heard are as follows:
- For applications made in the normal admissions round appeals must be heard within 40 school days of the deadline for lodging appeals.
  - For late applications appeals should be heard within 40 school days from the deadline for lodging appeals where possible or within 30 school days of the appeal being lodged.
  - For applications for in-year admissions appeals must be heard within 30 school days of the appeal being lodged.

You will normally be given at least 10 school days' notice of the date, time and place of the meeting of the Appeal Panel unless you agree to a shorter period of notice, e.g. when the beginning of the new school year is imminent.

The Clerk to the Appeal Panel can advise you on the arrangements for Appeal Panel hearings, including for example, facilities for disabled people.

9. At least seven days before the hearing, you will receive a statement from The Totteridge Academy setting out their case. This will include:
- How the admission policy has been applied;
  - The reasons for the decision concerning your child;
  - Copies of any information or documents which are to be made available at the Appeal Panel hearing.
10. You will be able to appear before the Appeal Panel and make your case, if you wish. You are encouraged to attend wherever possible. An Appeal Panel may also allow you to be accompanied or represented by a friend or otherwise. You may call witnesses.

You should notify the Clerk to the Appeal Panel if you are to be accompanied by anyone or if you wish to call witnesses. If you do not attend, your appeal will be heard in your absence on the basis of the available documentation as long as:-

- You have given notice of your intention not to attend, but you allow the appeal to proceed without you, or
- You do not attend and there are no reasonable grounds for adjourning the hearing to another date.

### **APPEAL PANELS**

11. Appeal Panels, which are independent of The Totteridge Academy, must consist of the following persons with at least one from each category:

- Lay people (someone without personal experience in the management of any school or provision of education in any school - except as a school governor or in another voluntary capacity)
- People who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered students at school.

The following people are disqualified from membership of an Appeal Panel:

- A member of the local authority which is the admission authority, or in whose area the school in question is located;
- A member or former member of the governing body of the Academy
- Employed by the local authority or governing body of the Academy in question, other than as a teacher or teaching assistant;
- Any person who has, or at any time has had, any connection with the authority, Academy or any person detailed above which might reasonably be taken to raise doubts about the person's ability to act impartially;
- Any person who has not attended training required by the admission authority.

12. The constitution and procedure of Appeal Panels is in accordance with the provisions under Section 94 of the School Standards and Framework Act 1998. The admission authority and appeal panel must act in accordance with the School Admission Appeal Code, the School Admissions Code and the School Admissions (Appeal Arrangements) (England) Regulations 2012, other law relating to admissions and relevant human rights and equalities legislation, for example the Equality Act 2010.

### **HOW APPEAL PANELS REACH A DECISION**

13. In considering an appeal, Appeal Panels must consider the following matters in relation to each child that is the subject of an appeal:

- Whether the admission arrangements (including the LB Barnet's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998; and
- Whether the published admission arrangements were correctly and impartially applied in the case in question.

14. In reaching a decision, Appeal Panels will follow a two-stage process:

#### **Stage 1**

It is for The Totteridge Academy to satisfy the Appeal Panel that your child's admission to the Academy would prejudice the provision of efficient education or the efficient use of resources.

If The Totteridge Academy fails to satisfy the Appeal Panel on this point, the Appeal Panel must allow the appeal and allocate a place to your child at the Academy.

### Stage 2

If The Totteridge Academy does satisfy the Appeal Panel on the above point then the Panel must balance this against your preference and decide which should prevail.

They will consider the reasons you give for your preference and The Totteridge Academy's published admission arrangements. They will also consider the consequences for The Totteridge Academy of complying with your preference and how serious this would be. The Panel will then balance these conflicting factors and reach a decision.

### **THE PROCEDURE AT THE APPEAL PANEL HEARING**

15. At the start of the hearing, the Chairperson of the Appeal Panel will welcome everyone, introduce those present, and explain the procedure. Appeals will be heard in private. However, where the Appeal Panel hears more than one appeal in relation to one school at the same time, The Totteridge Academy may present its general case in the presence of all the parents.
16. Both parties will have the opportunity to put their case and, normally, the proceedings will be as follows:-
  - (i) the case for The Totteridge Academy
  - (ii) questioning by the parent & Appeal Panel
  - (iii) the case for the parent
  - (iv) questioning by The Totteridge Academy & Appeal Panel
  - (v) summing up by The Totteridge Academy
  - (vi) summing up by the parent.
17. Sufficient time will be allowed for each party to put forward its case. The Appeal Panel will ensure that you are given the opportunity to comment on any information obtained from The Totteridge Academy in the course of hearing other appeals where the Panel considers this information will be relevant to its decision.

Neither party attending the hearing will be present alone with the Appeal Panel in the absence of the other.
18. Appeal Panels may take into account any other matters they consider relevant and may seek relevant information from any other source. Appeal Panels may call upon Local Authority Officers to provide such information as they may require before reaching their decisions.
19. The Clerk will remain in attendance throughout the hearing and may be called upon to give legal or procedural advice to the Appeal Panel during the course of the hearing and when they retire to consider a decision.
20. In the event of disagreement between the members of an Appeal Panel, the appeal shall be decided by a simple majority of the votes cast.

## **DECISIONS OF APPEAL PANELS**

21. The Clerk will record decisions and will be responsible for telling you and The Totteridge Academy the decisions and the grounds on which it is made, in writing.
22. The decision of an Appeal Panel will be binding on the part of all parties. If the decision of an Appeal Panel is not to allow your appeal, The Totteridge Academy may later consider your child for a place at the Academy should a suitable vacancy subsequently occur.
23. If you are dissatisfied with the decision of an Appeal Panel you cannot bring a further appeal based on the same facts. However, the Director of Children's Services may allow parents a further appeal if satisfied that there is:
  - a sibling link at The Totteridge Academy which was not there at the time of the original appeal;
  - a change of address which means the home address is significantly closer to The Totteridge Academy or is now in the designated local area of the preferred school;
  - new evidence supported by a letter from a hospital consultant, psychologist, social worker or health visitor, which could not have been introduced at the time of the original appeal hearing.

You should write to the Director of Children's Services, marked for the attention of the Admissions Services Team Leader, Children's Strategic Services with details if the above circumstances apply and a decision will then be taken as to whether grounds for a further appeal exist.

24. We hope that you feel that The Totteridge Academy has acted properly in relation to your Appeal. If you do have any cause for complaint or concern, you may use the Academy's Complaints Procedure to address this. The clerk to the governors can provide information. If you consider that you have suffered an injustice because of maladministration you can make a complaint about the way in which the decision was made by an Appeal Panel to the Local Commissioner for Administration (Local Government Ombudsman). 'Maladministration' refers to the way in which something has been handled – for example if there has been unjustifiable delay, procedural error, incompetence, neglect or prejudice - and not to the actual merits of the decision taken.
25. The Secretary of State cannot review or overturn an appeal decision relating to a maintained school. An appeal panel's decision can only be overturned by the courts where the appellant or admission authority is successful in applying for a judicial review of that decision.
26. However, under Sections 496, 497 and 497A of the Education Act 1996 and under an Academy's funding agreement, the Secretary of State may consider whether:
  - The panel was correctly constituted by the admission authority; and
  - The admission authority has acted reasonably in exercising functions in respect of the appeals process or failed to discharge a duty in relation to that process.

If you need any further information on admissions appeals, do not hesitate to contact London Borough of Barnet's Admission Team on [school.admissions@barnet.gov.uk](mailto:school.admissions@barnet.gov.uk).