



This guidance explains how to appeal against the decision to refuse your child admission and the appeal process for in-year admission for the academic year 2023/2024 and admission to Reception, Year 3 (Diamond Hall Junior Academy) and Year 7 for September 2024.

## **Background**

You, as parent or carer, have the right to say which school you would like your child to attend. On your application form you were asked to select schools in order of preference. Each school selected would receive your application form and your child would be ranked according to their published admission criteria.

The Admissions Authority is the North East Learning Trust. They make all decisions regarding admissions based on their published admissions criteria.

The Admissions Authority must follow legal admission guidelines and can only refuse your request if the school is full and/or there have been more applications than places available (their set Published Admission Number) and the Admissions Authority feels that to admit any more pupils to the school would affect the education of those already attending the schools.

## **Right of Appeal**

All parent(s), guardian or any person who has the actual custody of the child has the right to appeal:

- if you are not satisfied with the place offered by the Local Authority.
- against any decision made by or on behalf of the Admissions Authority refusing your child a place.

However, if a child has been permanently excluded from two or more schools the parent's right is effectively suspended for 2 years following the most recent exclusion.

## **Children with Special Educational Needs**

Regarding a child with a Statement of Special Educational Needs, or a child undergoing a statutory assessment of Special Educational needs, decisions regarding placements are made by the Local Authority through the Statutory Assessment and Review procedure.

Parents still have a right to appeal against the Local Authority's decision; however, the appeal is heard by the Special Educational Needs Tribunal and not to the Admission Appeals Panel.

## **How to Appeal**

An appeal can only be made after you have received written confirmation refusing your child a place at your preferred school.

If you wish to appeal against the decision, please email [schooladmissions@nelt.co.uk](mailto:schooladmissions@nelt.co.uk) to request an appeal form.

All appeals must be in writing and the Notice of Appeal can only be lodged after the written confirmation of the refusal to the school and should be received by the school within 30 days for first entry admissions and 14 days for casual admissions (admissions outside of the normal annual process).

The Notice of the Appeal must include:

- the name and address of the child
- the decision against which the appeal is made
- the grounds upon which the appeal is made
- the name and address of the person making the appeal
- if the appellant wishes to be represented including the name and address of the representative (*if applicable*)

When filling in the form you should, in support of your case, give all the reasons why you do not agree with the decision.

If you have any medical evidence to submit as part of your reasons for appeal, it is necessary to enclose a doctor's letter with your Notice of Appeal to confirm the medical position.

In accordance with published arrangements for admission to schools your **home address** should be shown on the Notice of Appeal. The address of child minders or other family members who may share in the care of your child must NOT be used.

If your appeal involves a house move it is in your own interest to provide appropriate evidence of your move to the new address. This should be either confirmation in writing from your solicitor or some other proof that contracts have been exchanged.

### **Key Stage 1 Class Size Legislation**

By law, infant classes must not have more than 30 children except for very limited exceptions. This means it is very difficult to win an appeal.

If you are considering an appeal for these year groups, you are advised to contact Joanne Barker, Governance Manager (Telephone Number: 01915634190 Ext 10120 or Email: [schooladmissions@nelt.co.uk](mailto:schooladmissions@nelt.co.uk)) as we will be able to explain in more detail about the law relating to infant class sizes.

### **Late appeals**

Appeals which are sent in late are not normally accepted, but if you do not return your appeal form within the time limit, due to exceptional circumstances, you should return your completed Notice of Appeal as soon as possible with a covering letter explaining why your appeal was late. This will then be assessed, and a decision will be made as to whether your appeal will be allowed to go ahead or not.

## **What happens next?**

Any appeal lodged will be acknowledged and an appeal hearing will be arranged by the Clerk of the Appeal Panel within 30 school days of the appeal being lodged for in year admission and 40 school days for appeals for the annual admission round. The appeal will be held via Microsoft Teams. You will have at least 10 days' notice in writing before your hearing unless you indicate on the appeal form you are willing to waive this notice to allow your appeal to be heard sooner.

At least 7 days before the appeal you will be sent a written statement summarising the reasons for the decision to refuse admission, the application of the admissions policy and a copy of everything you have sent to support your appeal.

You are entitled to attend the virtual appeal hearing and may be accompanied by a friend or be represented at the discretion of the Appeals Panel.

## **Who will hear my appeal?**

An Appeal Panel provides an independent decision as to whether the Admissions Authority (the Trust) followed their procedures correctly and made the correct decision.

An appeal panel will consist of three or five independent members.

On this panel at least one member will be:

- a lay member (a person who has no background or understanding of education)
- a member who has experience in education, acquainted with education in the local area or be a parent of a registered pupil (*School Standards and Framework Act 1998 (paragraph 2 of Schedule 24)*).

All selected members are independent from the Trust and the Academy and were not involved in the original decision that was made.

## **The Appeal Procedures**

### **Preparing for the Appeal Hearing**

You should read through the documentation you were sent and make notes of any questions that you wish to ask or anything that you do not understand, or you do not agree with.

You do not have to attend the hearing and your appeal can be considered from the written reasons you have given. However, we strongly recommend that you attend so that you can give detailed explanation of your reasons for your appeal. Appeal panels usually ask questions about what you have written. It can be difficult for them to make the best decision without all the information.

### **The Appeal Hearing**

We understand that if you have opted to attend the hearing it is appreciated it can be an anxious occasion, especially as it involves the future of your child's education. As a result, the Appeal

Panel, and its Clerk (who acts as adviser to the Appeal Panel on law and procedure) will try to keep the hearing as informal as possible.

The following members will be present with you during the hearing:

- 3 Panel members
- Clerk to the Panel
- School representative(s).

It is advised that you access the Teams meeting at least 10 minutes before the start time, there could be a delay to the start of the appeal should the previous hearing overrun, the Clerk will admit you to the meeting as soon as is practicably possible. If you do not join the meeting, the appeal may proceed without you.

Firstly, a representative of the Trust will present the case for the school to the Appeal Panel followed by an opportunity for questioning by the panel and yourself.

Secondly you, or your representative, will address the Appeal Panel and shall be subject to questioning by the representative(s) of the Trust and the Panel.

The Trust representative will sum up their case for the Academy and you will be invited to sum up your case.

The appellant and the Trust representative will retire, and the Appeal Panel will consider its decision.

Do not be afraid to ask about everything you do not understand or do not agree with.

### **How is the decision made?**

The Appeal Panel will follow the two stage decision making process for all appeals except for infant class size appeals.

#### **First stage – examining the decision to refuse admission**

The panel must consider the following matters in relation to each child that is the subject of an appeal:

- a) whether the admission arrangements (including the area'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
- b) whether the admission arrangements were correctly and impartially applied in the case in question.

The panel must then decide whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources.

In all cases, the panel must refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements that do not comply with admissions law.

The panel must uphold the appeal at the first stage where:

- a) it finds that the admission arrangements did not comply with admissions law or had not been correctly and impartially applied, and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or
- b) it finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources.

However, in multiple appeals where a number of children would have been offered a place, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel must proceed to the second stage.

The panel must proceed to the second stage where:

- a) it finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child; or
- b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that, if they had complied and had been correctly and impartially applied, the child would not have been offered a place; and it finds that the admission of additional children would prejudice the provision of efficient education or efficient use of resources.

### **Second stage – balancing the arguments**

The panel must balance the prejudice to the school against the appellant's case for the child to be admitted to the school. It must take into account the appellant's reasons for expressing a preference for the school, including what that school can offer the child that the allocated or other schools cannot. If the panel considers that the appellant's case outweighs the prejudice to the school, it must uphold the appeal.

In multiple appeals, the panel must not compare the individual cases when deciding whether an appellant's case outweighs the prejudice to the school. However, where the panel finds there are more cases which outweigh prejudice than the school can admit, it must then compare the cases and uphold those with the strongest case for admission. Where a certain number of children could be admitted without causing prejudice, the panel must uphold the appeals of at least that number of children.

### **Infant Class Size Appeals - Two stage process**

Regulations<sup>19</sup> made under section 1 of the School Standards and Framework Act 1998 limit the size of an infant class (a class in which the majority of children will reach the age of 5, 6 or 7

during the school year) to 30 pupils per school teacher. Only in very limited circumstances can admission over the limit be permitted.

This section deals only with appeals where an admission authority refuses to admit a child on the grounds that the admission of an additional child would breach the infant class size limit and there are no measures it could take to avoid this without prejudicing the provision of efficient education or efficient use of resources. Decisions on appeals for infant classes where the refusal was for any other reason should be made in accordance with the two stage process as above.

Panels must follow the two stage decision making process below when considering infant class size appeals.

### **First stage – examining the decision to refuse admission**

The panel must consider all the following matters:

- a) whether the admission of an additional child/additional children would breach the infant class size limit;
- b) whether the admission arrangements (including the area'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;
- c) whether the admission arrangements were correctly and impartially applied in the case(s) in question; and whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case.

The panel must immediately refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements it identifies as unlawful.

The panel may only uphold the appeal at the first stage where:

- a) it finds that the admission of additional children would not breach the infant class size limit; or
- b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied, and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or
- c) it decides that the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

In multiple appeals where a number of children would have been offered a place in accordance with the paragraph above, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel must proceed to the second stage.

The panel must dismiss the appeal at the first stage where:

- a) it finds that the admission arrangements did comply with admissions law and were correctly and impartially applied; or
- b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that, if they had complied and had been correctly and impartially applied, the child would not have been offered a place; and it finds that the decision to refuse admission was one which a reasonable admission authority could have made.

## **Second stage – comparing cases**

The panel must compare each appellant's case for their child to be admitted and decide which of them, if any, to uphold. Where the school could admit a certain number of children without breaching the infant class size limit (or without needing to take measures to avoid breaching it that would prejudice the provision of efficient education or efficient use of resources) the panel must uphold the appeals of at least that number of children.

In the event of a disagreement between the members of the Appeal Panel the appeal shall be decided by a simple majority votes cast and in the case of equality of votes the Chairperson of the Panel shall have a second or casting vote.

The decision of the Panel, and the grounds on which it is made, will be communicated by the Clerk of the Panel in writing.

The decision of the Appeal Panel is binding on parents/carers, the Trust, the Academy at which the Appeal Panel determines that a place should be offered to the child and the Local Authority.

### **What if my appeal is successful?**

Your child will be offered a place and the Academy will contact you to discuss admission arrangements.

### **What if my appeal is unsuccessful?**

You do not have the right of a second appeal in connection with the same school for the same academic year unless the admission authority has accepted a second application from you because of a significant and material change in circumstances but still refused admission. If you think this is the case, you should contact the Governance Manager for advice as to whether this applies to you.

Contact the Governance Manager to check whether there is a possibility to include your child's name on a waiting list. It is worth noting that children are ranked on the waiting list according to the admission criteria and children can move up and down waiting lists.

You can also contact the Admissions Team of your Local Authority for advice about getting a place at another school.

If you are unhappy with the decision of the Appeal Panel and want it overturned, the only option is an application to the High Court to seek judicial review of the decision. The High Court will only consider such an application if the decision of the panel discloses an error of law. If an application for judicial review is granted, the High Court may substitute its decision for that of the Appeal Panel (for example, where the facts are not in dispute) but will, more typically, remit the decision to a newly constituted Appeal Panel.