

**ADMISSIONS APPEALS  
SHENLEY BROOK END SCHOOL  
A PARENTAL GUIDE**

**(July 2012)**



## INTRODUCTION

If your child has been refused a place at Shenley Brook End School you have the right to appeal against the decision.

The appeal is heard by an Independent Admission Appeal Panel (the Appeal Panel) which is totally independent of the school and consists of volunteers who have no connection with the school.

This booklet is written for parents to help them understand how the appeal system works, and their role and rights within it and provides guidance on the following:

- The independent admission appeal process
- What happens at an appeal hearing
- How the independent appeal panel reaches its decision
- What happens after the appeal hearing

The advice contained in this booklet should be read as a summary of guidance for parents who are going through the appeal process for Shenley Brook End School and not a definitive or legal guide. The advice in this booklet has been drawn from the school Admission Appeals Code, published by the DfE, which applies to appeals in respect of decisions communicated on or after 1 February 2012, from which more detailed information can be obtained from:

TSO (The Stationery Office)  
PO Box 29  
Norwich  
NR3 1GN

Telephone: 0870 600 5522  
Textphone: 0870 240 3701

This information may also be downloaded or viewed online or ordered from:  
[www.dfes.gov.uk](http://www.dfes.gov.uk).

Appellants are advised to seek further guidance and information. Appellants who want further information on the appeal process should contact the Clerk to the Appeal Panel who may be able to help with any queries or concerns. The Clerk may be contacted on 020 8920 3662.

Appellants who would like further advice or information can contact the Advisory Centre for Education (ACE) which 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. ACE may be contacted on Freephone 0808 800 5793.

### **Terminology used in this booklet**

- **Admissions authority:** Shenley Brook End School is an Academy, responsible for its own admissions and is referred to both as the 'admissions authority' and the 'school'.
- **Appellant:** a parent who is appealing against the decision not to admit a child into the school.
- **Presenting officer:** this is the school representative at the appeal hearing, responsible for presenting the decision not to admit the child.
- **Published admissions number:** for each year group, there must be a published admissions number. The school must admit children strictly in line with the published admissions criteria up to the published admissions number.

However, under the school Admissions Code, when the school has reached its published admissions number, the school has a mandatory obligation to admit over its numbers under certain circumstances which include the following: looked after children; those whose statement of special educational needs names Shenley Brook End School; applicants who are successful at independent appeal; those who are admitted by the locally agreed Fair Access Protocol or who the LA direct the school to take. Additionally, it is the school policy that in cases where there is one remaining place available and the next child to meet the admissions criteria is one of a twin, triplet or other multiple birth group, then both twins would be admitted (or all the siblings in the case of multiple births) even if this goes above the admissions number for the school.

### **The admissions appeals timetable**

Secondary admissions round (i.e. those relating to decisions sent on national offer date): appeals for on-time admissions must be heard within 40 school days of the deadline for lodging appeals.

Secondary admissions round – 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.

In-year admissions: these appeals must be heard within 30 school days of the appeal being lodged.

School sixth form admissions: where the offer of a place would have been conditional upon exam results, appeals must be heard within 30 school days of confirmation of those results; where the offer of a place would not have been conditional upon exam results, appeals must be heard within 40 school days of the deadline for lodging appeals; appeals submitted after the appropriate deadline will still be heard, in accordance with the timetable published by the school.

## **Your right of appeal**

If you receive a letter from the admissions authority informing you that Shenley Brook End School will not be offering your child a place, the letter will also notify you of your right to appeal against this decision to an Independent Appeal Panel. Your appeal will be heard by the appeal panel at a hearing which will be arranged by the Clerk to the Appeal Panel, to which both you and a representative of the school will be invited to attend and give evidence.

Following the hearing the appeal panel will make a decision on the case which is binding on the admissions authority.

There is no further right of appeal.

## **Grounds for appeal**

The letter from the school should set out the reasons why the application to join the school was not successful. You should read the letter very carefully. At the independent appeal you will be able to question the school's presenting officer about the reasons given for non-admission. You should also consider carefully your reasons for wanting your child to attend Shenley Brook End School.

You may present any reason you feel appropriate as part of your case. There might be one over-riding reason or a combination of reasons. These might include:

- Family circumstances
- Existing links with the school
- Transport
- How close you live to the school
- How difficult it would be to go to another school
- Medical reasons
- The school has not administered its admissions criteria correctly

This is not a definitive list; you may have other reasons for your appeal.

You are strongly advised to provide evidence to support your appeal, whatever reasons you wish to present. For example, if you are appealing on medical grounds, you are advised to submit copies of letters from your doctor/consultant as evidence for the panel to take into consideration.

### **Appealing to more than one school**

Parents are entitled to make an independent appeal against each school to which they have made an unsuccessful application.

### **Making an appeal**

If you wish to appeal against the decision not to offer your child a place at Shenley Brook End School you must notify the Clerk to the Appeal Panel in writing. An Appeal against Admission Decision form, with details of where to send your request, is included with this booklet or available to download from the school website.

If your child has been permanently excluded from two or more schools, the right of appeal is effectively suspended for two years after the second or any subsequent exclusions.

### **Notification of the appeal hearing**

Once you have submitted your written intention to appeal, the clerk will arrange a time for the appeal to be heard. The clerk is required to give you written notice of the time and place of your hearing at least 14 days (10 school days) before the appeal will be heard. If an appeal is urgent, parents can agree with the clerk to have less than the 10 school days notice. If you agree this with the clerk you will be required to confirm this in writing.

### **Paperwork**

At least ten school days before the hearing you will receive written notification of the date and arrangements for the hearing. A reasonable time before the date of your appeal all members of the appeal panel and the representative of the school will be sent copies of these papers at the same time.

The papers will include copies of:

- All correspondence between yourself and the school, and the LA where applicable
- Proof of residency for you and your child, as applicable
- Your appeal form

- Papers you have supplied to the clerk to support your grounds for appeal
- A statement from the school
- Information about the order of proceedings, including panel members

## **Preparing for the appeal**

You should familiarise yourself with all the papers. Read carefully the statement from the school which explains why your child has been refused admission. You should spend some time deciding what you would like to say when the appeal panel asks you for your reasons for wanting your child to attend Shenley Brook End School. It may help to write this down. Any additional evidence to support your appeal should be sent to the clerk by the date specified. Please note it may be necessary to adjourn the hearing if significant information is received after the specified deadline, which the panel considers may need further investigation or to which the admissions authority may need time to respond.

Please make sure you tell the clerk before the hearing if you have additional information to be considered.

## **Proof of residency**

The panel will consider your address to be that at which you and your child are actually resident on the day of the appeal.

To be considered as an in-area applicant you need to have proof of residence in the defined area. If you have not yet provided proof of your address (your current Council Tax bill, and evidence that your child is resident at this address, your Child Benefit statement) the school will expect to have seen the original documents before the appeal hearing for you to be considered an in-area applicant.<sup>1</sup>

## **Before the appeal hearing**

- Make sure you have sent in any paperwork to the clerk by the deadline
- Make sure you have studied the statement from the school
- Write down any questions you would like to ask about the statement
- You may find it helpful to write out your case to read out at the hearing or make notes so you remember what you want to say
- Be prepared to answer any questions put to you by the appeal panel or the school representative
- Invite your partner, friend or supporter to come with you if you wish

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<sup>1</sup> For further guidance please contact the school's admissions office. If you cannot provide proof of residence in the school's defined area, the school will consider that your application is an out-of-area application.

- Advise the clerk if you have any access needs or require any special equipment or other assistance
- If you require the services of a translator or signer, you should notify the clerk on the appeal form
- Make sure you bring all the relevant documentation with you to the hearing

Remember also to provide the school admissions office or the schools Admissions and Transport Team with *the proof of your address, and of your child being resident at your address, if you have not already provided this information.*

### **Withdrawing an appeal**

You can withdraw your appeal before the appeal hearing by telephoning and then confirming it in writing to the Clerk to the Appeal Panel. However, if you wish your appeal to be reinstated you will normally be expected to show good reason why it should be. You may also withdraw from an appeal during the appeal itself.

You are advised to give the matter careful consideration before you do withdraw your appeal.

### **Attending the appeal hearing**

Parents should make every effort to attend the appeal so that they can provide information to help the Appeal Panel reach a balanced decision. If you do not or cannot attend, and another date cannot be arranged, the appeal may go ahead in your absence and be decided on the written information submitted.

If an emergency prevents you from attending on the day, you should ring the Clerk to the Appeal on 020 8920 3662.

### **Venue**

Clerks Associates UK arranges the appeals on behalf of Shenley Brook End School. The appeals are heard at the school and parents will be notified of the exact venue by the Clerk to the Appeal Panel. If travelling by car, you are advised to allow sufficient time for parking.

### **Attendance**

The following people will be at the appeal hearing

- You; and, if required, your partner, friend or supporter



- The Appeal Panel (3 or 5 members)
- The Clerk to the Appeal Panel
- The school's presenting officer and, occasionally, another representative of the school
- In addition, if you have indicated a request for an interpreter or signer on the appeal form there will be an interpreter or signer provided by the admissions authority.

You and the presenting officer will wait in separate areas before the appeal. Neither you nor the presenting officer may be left alone with the appeal panel at any time so if there is a reason to adjourn the meeting, you will both be required to leave the room and again must wait in separate areas. You must enter and leave the room at the same time as the school's presenting officer.

### **Who you might wish to bring with you to the appeal**

Your friend or advisor can be a family member or friend or advisor such as a Choice Advisor, interpreter or signer, a locally elected politician, or an employee of the LA such as an educational social worker, SEN advisor or learning mentor, provided this will not lead to a conflict of interest. Employees or governors of Shenley Brook End School are not allowed to attend in this capacity. It is for you as a parent to decide whether your child should attend the hearing.

If you intend to call a witness or be represented at the hearing, please inform the clerk.

### **The Independent Panel**

The appeal panel will have 3 (or sometimes 5) members. It is entirely independent of the school. No member will have ever had any connection with the school or with any of the appellants. All members of the appeal panel are volunteers. There will be at least one lay member, who has no experience of the provision of education (but may be a school governor or in another voluntary capacity at another school) and one non-lay person, someone who has experience in education, who are acquainted with educational conditions in the Local Authority area, or who are parents of registered pupils at school. One panel member acts as the Chair of the Panel.

The appeal panel members will have received training for their role. They are there to consider the written evidence, listen to the oral evidence and ask questions of both sides.

The appeal panel will then make a decision and will decide either to uphold or reject an appeal. If it decides to uphold an appeal, deciding that a child shall

be admitted to the school, this is legally binding on the admissions authority (unless overturned by a court). If the appeal panel decides to reject an appeal, there is no further right of appeal.

### **The Clerk to the Appeal Panel**

The clerk is not a member of the appeal panel but has an important part to play in ensuring that the relevant facts are established and that the appeal hearing is conducted in a fair way. The clerk is independent of the school and the LA. The clerk arranges the hearing, provides independent advice to you on the appeal process prior to and during the hearing, and takes notes at the hearing to record the proceedings. The clerk will write to tell you the appeal panel's decision.

The clerk does not take part in the decision making process, although the clerk will be present when the appeal panel makes its decision.

### **The appeal hearing**

The hearing follows a set procedure, but every effort is made to make the hearing as informal as possible.

The hearing will follow these stages:

- The Chair of the Appeal Panel will welcome all parties to the hearing, introduce the panel members and the Clerk, the school's presenting officer and parents or representative of the child.
- The Chair will explain the role of the Appeal Panel. The Chair will clarify that the appeal panel is an independent body and its decision is legally binding.
- The Chair will explain the role of the Clerk.
- The Chair will explain the procedure and order of the hearing, and is responsible for effective time management.
- The school's presenting officer will present the case for the school.
- You, or your representative, and the appeal panel may ask the school's presenting officer questions.
- You, or your representative, will be given the opportunity to present your case.
- The school's presenting officer and the appeal panel will have the opportunity to ask you questions.
- The school's presenting officer will sum up the case for the school.
- You, or your representative, will have the opportunity to sum up your case.

If you wish to make your own notes during the proceedings you may do so.

The appeal panel members may ask questions at any time during the hearing to clarify what is being said, or to ascertain further information in order to reach a decision.

Once these stages have been completed, you and the school's presenting officer will be asked to leave together.

The appeal panel will consider the case and make their decision. Appellants will be notified of the decision in writing.

## **Multiple appeals**

Multiple appeals are when a number of appeals have been received in relation to the same school. Admission Authorities must take all reasonable steps to ensure that multiple appeals for a school are heard by one panel with the same members. Where more than one panel has to consider appeals for the same school, each panel must make its own decision independently. A panel hearing multiple appeals must not make decisions on any of those appeals until all the appeals have been heard.

Multiple appeals may be heard either individually or in groups. Hearing multiple appeals individually means holding a series of consecutive appeal hearings. The panel must ensure that the presenting officer does not produce new evidence in later appeals that was not presented in earlier appeals as this would mean that appellants whose cases were heard earlier in the process would not have the opportunity to consider and respond to the new evidence. If material new evidence comes to light during the questioning of the presenting officer, the clerk must ensure that the panel considers what bearing that evidence may have on all appeals.

When multiple appeals are grouped, the presenting officer's case is usually heard in the presence of all the appellants at the beginning of the hearing (or sometimes at the start of each day when a hearing runs over a number of days). The appellants' cases are then heard individually without the presence of other appellants.

## **Reaching decisions on appeals**

Panels must follow the two stage decision making process below for all 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<sup>2</sup> 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 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 the admission 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

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<sup>2</sup> At this stage the characteristics and circumstances of the particular child in question will not, except in extreme cases, be relevant to the question of whether the admission will cause prejudice.

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.

### Consideration of prejudice

Whilst the panel must take into account the school's published admission number, the admission authority must be able to demonstrate prejudice over and above the fact that the published admission number has already been reached<sup>3</sup>. The panel must not reassess the capacity of the school, but must consider the impact on the school of admitting additional children. In reaching a decision as to whether or not there would be prejudice the panel may consider the following factors:

- a) What effect an additional admission would have on the school in the current and following academic years as the year group moves through the school;
- b) Whether any changes have been made up to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
- c) The impact of the locally agreed Fair Access Protocol<sup>4</sup>;
- d) The impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.

### **Adjourning an appeal hearing**

The Appeal Panel may adjourn the 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 it may be 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 it; or

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<sup>3</sup> See paragraphs 1.2 and 1.5 of the School Admissions Code for further information about published admission numbers.

<sup>4</sup> See paragraphs 3.9 and 3.15 of the School Admissions Code for further information about Fair Access Protocols.

- If the Appeal Panel requires further information to be obtained by the school 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 may have to adjourn that appeal and/or any other appeal to a later time or another day; or
- If a Panel member is ill or absent; or
- For any other appropriate reason.

### **After the appeal hearing**

The Appeal Panel must communicate the decision of every appeal, including the reasons for the decision, to both parents and the admissions authority. The clerk will write within five working days, although for group multiple appeals this will not be possible as all appellants must be notified at the same time. In this case, the Chair of the Appeal Panel will indicate the date by which all the appellants will be notified of the decision.

### **Further appeals**

There is no appeal against the decision of the Independent Admission Appeal Panel. Parents who have appealed unsuccessfully can apply for a place at the same school in respect of a later academic year and have a right of appeal if that application is unsuccessful.

However, if your circumstances change significantly, for example if your first appeal was heard when you lived outside the defined area and you subsequently move into the reserved area, you may apply to the school again. It is up to the school to decide whether there has been a 'material change in circumstances' and whether it will, therefore, consider your application again. A fresh appeal can only be made if the school considers the application again and turns it down.

### **Complaints Procedure**

If you are concerned at the Appeal Panel's decision, you can ask the Secretary of State for Education to investigate. This is not a right of appeal and has to relate to issues such as a failure to follow correct procedures, or a failure to act independently and fairly, rather than you just thinking that the decision is wrong. The Secretary of State cannot review or overturn decisions of Appeal Panels, but can consider whether the Panel was correctly constituted by the school and whether the school has acted reasonably in exercising functions in respect of the appeal process, or has failed to discharge any legal duty in relation to the process. An Appeal Panel's decision can only be overturned by the Courts where the appellant or the school is successful in applying for Judicial Review of that decision.

Complaints about maladministration on the part of an appeal panel for an Academy, or that an Academy Trust has failed to comply with the Appeals Code in setting up a panel, are investigated by the agency appointed to investigate complaints about Academies on behalf of the Secretary of State. At the date of publication this is the Young People's Learning Agency.

Appellants considering making a complaint can email the Young People's Learning Agency at [academyquestions@ypla.gov.uk](mailto:academyquestions@ypla.gov.uk) or write to:

Young People's Learning Agency, Cheylesmore House, Quinton Road, Coventry, CV1 2WT.

### **Appeals for Sixth Form**

The requirements for entry to the Sixth Form are set out in the school's published admission arrangements for Sixth Form. If a child is refused admission to the sixth form the school will have explained the reasons why the application has been unsuccessful with reference to the admissions criteria. Parents have a right to appeal against the decision. Sixth form appeals follow the normal two-stage process, as detailed earlier.

### **Appendix: useful contact details for advice on admissions and appeals**

#### **The Advisory Centre for Education (ACE):**

ACE  
The Busworks  
United House  
North Road  
London  
N7 9DP

Tel: 0808 800 5793 (freephone)

Fax: 020 7354 9069

Website: [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

#### **Milton Keynes Choice Advice**

MK Parent Partnership Service

Tel: 01908 253514 (9.30 – 1.00)

Email: [contact@mkparents.org](mailto:contact@mkparents.org)

Website: [www.mkparents.org](http://www.mkparents.org)

## **Equality and Human Rights Commission (EHRC)**

EHRC  
3 More London  
Riverside Tooley Street  
London  
SE1 2RG

Tel: 08456 046610  
Email: [info@equalityhumanrights.com](mailto:info@equalityhumanrights.com)  
Website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## **The Secretary of State for Children, Schools and Families**

Department for Children, Schools and Families (DCFS)  
Sanctuary Buildings  
Great Smith Street  
London  
SW1P 3BT

If you would like to ask someone at the DCFS about school admissions please contact their Public Enquiry Unit as follows:

Tel: 0870 000 2288  
Website: [www.education.gov.uk](http://www.education.gov.uk)

## **Copies of the school Admissions Code and School Admission Appeals Code may be obtained from:**

TSO (The Stationery Office)  
PO Box 29  
Norwich  
NR3 1GN

Telephone 0870 600 5522  
Textphone: 0870 240 3701

These documents may also be downloaded or viewed on-line or ordered from:

Website: [www.education.gov.uk](http://www.education.gov.uk)

**General information about school admissions and the appeal processes is available from the Directgov website:** [www.direct.gov.uk](http://www.direct.gov.uk)



**The address for The Clerk to the Independent Admission Appeal Panel for Shenley Brook End School is:**

The Clerk to the Independent Appeal Panel  
Clerks Associates UK  
47 London Road  
Enfield  
EN2 6DS

Tel: 020 8920 3662

Your application to appeal should be sent to the Clerk, who will also be able to help with any further information or queries you may have about the appeals process.