

Education Department Policy

Title	School Admission Appeals
Issued	9 March 2016
Last Updated	27 July 2016
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1. Overview

This policy details the framework used by the Education Department to administer school appeals against school admissions decisions.

2. Scope

The Education Department is responsible for the administration of decisions about school place admissions, from Nursery to Year 11, in non-fee paying States' schools (17 nurseries, 22 primary schools and 4 secondary schools). The Education Department is also responsible for Hautlieu school's admissions appeals.

Admissions to all other schools are not covered by this policy.

3. Responsibilities and distribution

The information in this policy is for use by Education Department staff and appeal panel members. It is also published on the department's website and available to members of the public.

4. Policy/Standards

The appeal process for school admissions in Jersey is non-statutory. There is no right of appeal against school admission decisions in Law. However in line with good practice the Education Minister allows appeal against admissions decisions. Appeals are made to the Minister and heard by a panel.

4.1 Constitution of Appeal Panels

The Education Department is responsible for making arrangements for appeals against the refusal of a school place within a specific school. Education Department admissions staff and the appeals panel must act in accordance with School Admissions Policies, the Education Law Jersey (1999) and the Discrimination (Jersey) Law 2013.

Appeal panels perform a government function and must be transparent, accessible, independent and impartial, and operate according to principles of natural justice.

4.2 Membership

The Education Department must appoint an appeals coordinator for appeal panels. The appeals coordinator must have knowledge of all school admissions procedures and all laws relating to admissions and other relevant law, and be able to offer advice to enable the panel to undertake its government function.

The Education Department, or the appeals coordinator acting on behalf of the Education Department, must appoint an independent appeal panel¹ that is comprised of a chair and at least two other panel members.

The panel will be made up of:

- a senior member of the Education Department's with no prior involvement in the case;
- either the Minister or Assistant Minister for Education;
- an independent member of high standing in the community.

The Education Department must ensure that independent panel members retain their independence during the appeal period.

The Education Department must not allow a disqualified person to be a member of a panel.

An independent person is disqualified if:

- a) they are a member or former member of the governing body of the school in question;
- b) they are employed by the Education Department
- c) it might reasonably be taken to raise doubts about that person's ability to act impartially;
- d) they have not attended an appeal induction²

A senior member of the Education Department is disqualified if they are:

- a) a member or former member of the governing body of the school in question;
- b) it might reasonably be taken to raise doubts about that person's ability to act impartially;
- c) they have not attended an appeal induction.

A person must not be a member of an appeal panel where they were involved in making the original admissions decision or provided information which contributed to the decision.

4.3 In session illness / incomplete panel / appellants non attendance

If a panel member has to temporarily withdraw (for example because of illness), the panel must postpone the remaining appeal hearings until the panel member returns. If the panel member is unable to return, a replacement must be appointed.

If a panel is incomplete then an appellant can request the hearing is still heard with an incomplete panel.

If an appellant fails to attend a hearing then the panel can make a decision in their absence if it is positive. For the panel to make a negative decision then the appeal coordinator must be able to demonstrate that every effort has been made to contact the appellant and no fair reason for failing to attend has been identified.

¹ The constitution of Hautlieu appeal panels is detailed separately in the Hautlieu Appeals Policy

² It is the responsibility of the appeals coordinator to ensure that all panel members have received an induction

4.4 Roles and responsibilities

The appeals coordinator

The appeals coordinator's role is to make the necessary administrative arrangements for hearings; to notify the parties of the order of proceedings in advance of the hearing; to respond to queries from appellants in advance of the hearing, or to identify the appropriate person to provide a response. They must provide an impartial service and are an independent source of advice on procedure and admissions policy (**Education Law Jersey 1999**). They keep a record of proceedings and provide appellants with written notification of the panel's decision. They also usher appellants to and from appeals and prepare the venue.

Admissions officer

The admissions officer's role is to provide the appeals coordinator with an information pack containing details relevant to all appeals.

The Customer service team

The Customer service team's role is to meet and greet appellants and inform the appeals panel of their arrival.

The Chair

The chair is responsible for the conduct of the hearing including introducing the parties and explaining the roles of the appeals coordinator and the panel, explaining how the hearing will be conducted, and ensuring that the parties have sufficient opportunity to state their case and ask questions.

4.5 Guiding principles for appeal panels

Appeal panels must operate according to the principles of natural justice. Those most directly relevant to appeals are:

- a) members of the panel must not have a vested interest in the outcome, or any involvement in an earlier stage, of the proceedings;
- b) each side must be given the opportunity to state their case without unreasonable interruption; and
- c) written material and evidence must have been seen by all the parties.

5. Appeal Hearings

5.1 Timetable

The Education Department must set a timetable for organising and hearing appeals that:

- a) includes a deadline for lodging appeals which allows appellants at least 20 school days from the date of notification that their application was unsuccessful to prepare and lodge their written appeal;
- b) ensures that appellants receive at least 10 school days' notice of their appeal hearing;
- c) includes reasonable deadlines for appellants to submit additional evidence, for Education Department staff to submit their evidence, and for the appeals coordinator to send appeal papers to the panel and parties;
- d) ensures that decision letters are sent within five school days of the hearing wherever possible.

The Education Department must publish their appeals timetable on their website by January each year.

The Education Department must ensure that appeals lodged by the appropriate deadlines are heard within the following timescales:

- a) for applications made in the normal admissions round, appeals must be heard within 40 school days of the deadline for lodging appeals;
- b) 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;
- c) for applications for in-year admissions, appeals must be heard within 15 school days of the appeal being lodged.

An application is an 'in-year' application if it is for the admission of a child to a relevant age group and it is submitted on or after the first day of the first school term of the admission year.

5.2 Communication Pre Appeal Hearing

When the Education Department informs a parent of a decision to refuse their child a place at a school for which they have applied, it must include the reason why admission was refused; information about the right to appeal; the deadline for lodging an appeal and the contact details for making an appeal. Parents must be informed that, if they wish to appeal, they have to set out their grounds for appeal in writing. The Education Department must not limit the circumstances on which an appeal can be made.

No later than 10 school days before the hearing, the Education Department must provide appellants with written notification of the date of and arrangements for the hearing and ask whether they intend to call any witnesses or be represented at the hearing. The notification must include a deadline for the submission of any further evidence that was not sent with the initial appeal. The Education Department must inform appellants that any information or evidence not submitted by the deadline might not be considered at the appeal. Parents may waive their right to '10 school days' notice' of the hearing.

The Education Department must comply with reasonable requests from parents for information which they need to help them prepare their case for appeal.

5.3 Production of evidence from the Education Department prior to the hearing

Relevant Education Department staff must supply the appeals coordinator with all relevant documents needed to conduct the hearing in a fair and transparent manner and in accordance with the specified timetable. This must include the reasons for the decision to refuse admission and an explanation as to how admission of an additional child would cause prejudice to the provision of efficient education or efficient use of resources.

The appeals coordinator must send the background information required for the hearing, including the names of the panel members, to both the appellant and the appeals panel a reasonable time before the date of the hearing. This will allow opportunity for any objections regarding impartiality of panel members to be notified to the appeals coordinator. An appeal panel must decide whether any material not submitted by the specified deadline is to be considered, taking into account its significance and the effect of a possible need to adjourn the hearing.

5.4 Attendance and representation

In addition to the appeals coordinator the panel may ask the officer responsible for the admissions decision not to admit the child, to answer detailed questions about the case being heard and about the school. If the officer is not available on the day of the appeal, the panel can decide to resolve the case by using the evidence previously submitted to the panel if it is satisfied that to do so will not disadvantage the appellant.

Appeal panels must allow appellants the opportunity to appear in person and make oral representations. Appellants may be represented, or accompanied by a friend. Where an appellant fails, or is unable, to attend and it is impractical to offer an alternative date the appeal may go ahead and be decided on the written information submitted. Appeal panels must comply with their duties under the **Discrimination (Jersey) Law 2013** when considering an appellant's attendance and representation at the appeal.

Panels must not allow representatives of schools to support individual appeals for places at their school at the hearing itself, or by providing letters of support for appellants. Such support could create conflicts of interest and unfairness to other appellants.

5.5 The appeal hearing

The Education Department must take all reasonable steps to ensure the venue is appropriate, accessible to appellants, and has a suitable area for appellants to wait separately from the panel before and between appeals.

The Education Department must ensure that appeal hearings are held in private, and are conducted in the presence of all panel members and parties. One party must not be left alone with the panel in the absence of the other. Where one party is unable to or has failed to attend the appeals coordinator must remain with the panel and remaining party at all times.

The appeals coordinator must notify the parties of the order of the proceedings in advance of the hearing.

A suggested order is set out below:

- a) case for the Education Department;
- b) questioning by appellant(s) and panel;
- c) case for the appellant(s);
- d) questioning by the panel;
- e) summing up by the panel chair;
- f) summing up by the appellant(s).

5.6 Multiple appeals

Multiple appeals are when a number of appeals have been received for the same school. The Education Department 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.

Hearing multiple appeals individually means holding a series of consecutive appeal hearings. The panel must ensure that the appeals coordinator 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 new evidence comes to light during the questioning of the presenting officer, the appeals coordinator must ensure that the panel considers what bearing that evidence may have on all appeals.

5.7 Reaching a decision

Appeal panels must either uphold or dismiss an appeal and must not uphold an appeal subject to any specified conditions³. A panel's decision that a child shall be admitted to a school is binding.

Panels must ensure that appeals are decided by a simple majority of votes cast.

Further information about the decision making process is detailed in section 6.

5.8 Notification of the decision

The panel must communicate the decision of each appeal, including the reasons for that decision, in writing to the appellant. The appeals coordinator or chair must sign the decision letter and send it to the parties as

³ However the panel may ask for proof of circumstances for example a Medical condition and make it a condition of the decision.

soon as possible after the hearing but no later than five school days, unless there is good reason. In the case of applications outside the normal admissions round, the child must be admitted to the school without unnecessary delay.

The panel must ensure that the decision is easily comprehensible so that the parties can understand the basis on which the decision was made. The decision letter must contain a summary of relevant factors that were raised by the parties and considered by the panel. It must also give clear reasons for the panel's decision, including how, and why, any issues of fact or law were decided by the panel during the hearing.

5.9 Notes and records of proceedings

The appeals coordinator must ensure an accurate record is taken of the points raised at the hearing, including the proceedings, attendance, voting and reasons for decisions.

Notes and records of proceedings must be kept securely by the Education Department for a minimum of two years. Such notes and records will, in most cases, be exempt from disclosure under the **Freedom of Information Law Jersey 2015** and the **Data Protection Jersey 2005**. Legal advice must be obtained before any information or data contained in appeal notes or records is released.

6. Reaching Decisions on Appeals

6.1 Two stage process

Panels must follow the two stage decision making process for all appeals.

First stage – examining the decision to refuse admission

The panel must consider:

- a) whether the admission arrangements complied with the admissions criteria and were correctly and impartially applied;
- b) whether the admission of an additional child/additional children would breach the class size policy;
- c) whether the decision to refuse admission was reasonable (see section 6.4);
- d) whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources.

The panel must refer to the Chief Education Officer any aspects of the admission arrangements that do not comply with the Education Jersey Law (1999).

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

- a) it finds that the admission of additional children would not breach the school class size limit; or
- b) it finds that the admission arrangements were not correctly and impartially applied and the child would have been offered a place if they had; or
- c) it decides that the decision to refuse admission was not reasonable based on the circumstances of the case.

The panel must proceed to the second stage where:

- a) in multiple appeals 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;

- b) it finds that the admission arrangements complied with the admissions policy and that they were correctly and impartially applied to the child; or
- c) it finds that the admission arrangements did not comply with admissions policy or were not correctly and impartially applied but that, if they had, the child would not have been offered a place.

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 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.

6.2 Consideration of prejudice

The Education Department must be able to demonstrate prejudice over and above the fact that the published admission number has already been reached. 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 to the school's physical accommodation or organisation since an admission number was originally set for the relevant year group;
- c) the impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school.

6.3 Waiting lists

The Education Department must maintain waiting lists for oversubscribed schools. If a primary school already has 28 children in a class then a panel may give a child priority on the school waiting list⁴.

6.4 Consideration of 'reasonableness'

The threshold for finding that the Education Department's decision to refuse admission was not reasonable is high. The panel will need to be satisfied that the decision to refuse to admit the child was 'perverse in the light of the admission arrangements' i.e. it was 'beyond the range of responses open to a reasonable decision maker' or 'a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it'.

7. Further appeals and complaints about appeals

7.1 Further appeals

Appellants do not have the right to a second appeal in respect of the same school for the same academic year unless, in exceptional circumstances, the Minister has accepted a second application from the appellant because of a significant and material change in the circumstances of the parent, child or school but still refused admission.

⁴ The priority assigned must be in line with school admissions criteria. However the panel may, for example, decide that an out of catchment child should be assigned catchment priority.

Appellants may apply for a place in the same school in respect of a later academic year and have a further right of appeal if that application is unsuccessful.

7.2 Complaints about appeals

Appellants may complain about maladministration on the part of an appeal panel to the Education Minister or, for complaints to be reviewed independently of the Education Department, the States of Jersey Complaints Board in respect of Non fee-paying States' schools.

The Education Department must inform parents about the arrangements for making a complaint.

The States of Jersey Complaints Board cannot review or overturn an appeal decision. An appeal panel's decision can only be overturned by the courts where the appellant is successful in applying for a judicial review of that decision.

[States of Jersey Complaints Board \(government and administration section\)](#)

8. Further information and related documents

[School Admissions \(gov.je website\)](#)

[List of provided schools \(Jersey law website\) \(Schedule 1 Article 3\)](#)

[Education \(Jersey\) Law 1999 \(Jersey law website\)](#)

[Discrimination \(Jersey\) Law 2013](#)

[Freedom Of Information \(Jersey\) Law 2011](#)

[Data protection Jersey 2005](#)

CHANGE HISTORY

Version	Date Issued	Issued by	Reason for Change
0.1	3 August 2015	Project Manager	First Draft for review
0.2	28 September 2015	Project Manager	Second Draft for review
0.3	13 November 2015	Project Manager	Third Draft for review
1.0	9 March 2016	Project Manager	Fourth draft approved by SMT
1.1	27 July 2016	Project Manager	Formatting changes

Presented To	Approved by:	Date
Secondary Head Teachers		
Primary Head Teachers		
Police / Honorary Police		
Senior Management Team	SMT	9 March 2016
The Education Minister		