APPEALS POLICY

Statement of intent

At Shirley High School, we welcome all pupils, and places at the school are offered in an open, fair, clear and objective manner however, we are aware that occasions arise when a parent's application for a school place is unsuccessful. In such circumstances, parents have the legal right to appeal the decision.

Shirley High School understands that getting the process right is essential for maintaining parental trust, upholding legal obligations, and promoting fair access to education for all children. It will ensure that appeals are conducted fairly, lawfully and transparently in line with the 'School Admission Appeals Code 2022'.

Implementation of this policy will ensure that Shirley High School is aware of, and carries out the required actions in order to comply with government guidance and legislation.

Admission authorities and admission appeals

The 'School Admission Appeals Code 2022' applies to all maintained and academy schools in England, excluding special schools, alternative and stand-alone 16-19 provision. It imposes mandatory requirements in relation to the discharge of functions by admission authorities of maintained schools, governing bodies and Local authorities, (when not admission authorities) and admission appeal panels.

The code outlines the two distinct roles that school admission authorities have when managing appeals:

- To arrange for an independent appeal panel to hear appeals for a place at their school.
- To present evidence to the independent appeal panel as to why the admission authority refused to admit the child who is the subject of the appeal.

Admissions authorities have a statutory duty to act in accordance with the relevant provisions of the Code, which has the force of law.

Academies are required by their funding agreements to comply with the Code and the law relating to admissions.

Type of school	Admission authority	Responsibility for arranging an admission appeal
Academies	**Academy trust**	**Academy trust**

1. Legal framework

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Equality Act 2010
- Human Rights Act 1998
- School Standards and Framework Act 1998
- DfE (2021) 'School Admissions Code'
- DfE (2022) 'School Admission Appeals Code'
- The School Admissions (Appeal Arrangements) (England) Regulations 2012
- Academies Act 2010

This policy operates in conjunction with the following school policies:

- Admissions Policy
- Pupil Equality, Equity, Diversity and Inclusion Policy
- Data Protection Policy
- Special Educational Needs and Disabilities (SEND) Policy
- SEN Information Report

2. Roles and responsibilities

The admissions authority is responsible for:

- Acting in accordance with the relevant legislation and guidance when managing the appeals process.
- Clearly communicating any reasons for rejecting the admission of a pupil, as well as the parent's right to appeal and the appeal process.
- Appointing a suitably qualified clerk to the appeal panel.
- Appointing an independent appeal panel that is composed of a chair and at least two other panel members.
- Indemnifying members of the appeal panel against any reasonable legal costs and expenses they incur in connection with any decision or action taken in good faith whilst acting as members of the appeal panel.
- Ensuring the appeals timetable is published on the admissions authority's website before the 28 February deadline.
- Providing the clerk to the appeal panel with all relevant documents needed to conduct the hearing in a fair and transparent manner and in accordance with the specified timetable.

The Governing Board is responsible for:

- Being aware of and, where relevant, assisting the admissions authority with the appeals procedure.

- Presenting the case for refusal where an application has been refused despite there being places available.

- Making written representations and nominating a governor to make oral representations during the appeals procedure.

The appeals clerk is responsible for:

- Having an in-depth knowledge of the relevant appeals codes and other relevant law.
- Providing an independent and impartial service for admission appeals.
- Making the necessary administrative arrangements for hearings.
- Notifying all parties of the order of proceedings in advance of an appeals hearing.
- Responding to queries from appellants in advance of an appeals hearing or identifying who will be appropriate to respond.
- Being an independent source of advice on procedure and admissions law.
- Keeping accurate records of proceedings and providing written notification of the appeals panel's decisions.

The chair of the appeals panel is responsible for:

- The conduct of the hearing, including:
    - Introducing parties
    - Explaining the roles of the clerk and the panel and how the hearing will be conducted
    - Ensuring that parties have sufficient opportunity to state their case and ask questions.

The appeals panel is responsible for:

- Acting in full compliance with their duties under the Equality Act 2010 when considering an appellant's attendance (either in person or remotely) and representation at the appeal.

- Following the two-stage decision making process for appeals.

- Referring to the LA or the admission authority (where appropriate) any aspects of the admission arrangements that do not comply with admissions law.

- Communicating the decision of each appeal, including the reasons for that decision, in writing to the appellant, the admission authority and the LA.

3. Right to appeal

In circumstances where a school place is refused, parents will have the right to appeal against the admissions authority's decision to refuse admission.

When informing a parent of a decision to refuse their child a place at the school the following information will be included:

- The reason why admission was refused
- Information about their right to appeal to an independent appeal panel
- That appeals must be made in writing
- The deadline for lodging an appeal
- The contact details for making an appeal
- Their right to be represented or accompanied by a friend, or to request an interpreter
- Information regarding the same right of appeal for the young person and their parents, separately

The admissions authority is aware that it has responsibility for making arrangements for appeals against the refusal of a school place. In all cases the admissions authority and appeal panel will ensure that it acts in accordance with School Admission Appeals Code, the School Admissions (Appeal Arrangements) (England) Regulations 2012, the School Admissions Code, other law relating to admissions, and relevant human rights and equalities legislation, for example, the Equality Act 2010.

4. Constitution of appeal panels

When an appeal has been submitted the admissions authority will establish an independent appeals panel to hear the appeal. The appeal panel will perform its judicial function in a transparent, accessible, independent and impartial manner, and operate according to principles of natural justice.

The admissions authority may make joint arrangements for hearing appeals with other admission authorities within the LA where this is seen as viable and appropriate.

The admissions authority will appoint a clerk to the appeal panel who is independent of the school and the education functions of the LA.

The clerk will have sufficient knowledge of the 'School Admission Appeals Code', the 'School Admissions Code', other law relating to admissions and other relevant law, as well as being able to offer advice to enable the panel to undertake its judicial function.

The appeals panel will be made up of a chair and at least two other panel members.

The panel will also include at least one lay person and one or more people with experience in education.

The clerk to the panel will undertake sufficient background checks to ensure that a disqualified person is not appointed as a member of a panel.

The admissions authority will ensure that panel members and clerks will not take part in hearings until they have received appropriate training as outlined within the School Admissions Appeals Code'.

The admissions authority will ensure that panel members are independent from the school and will remain independent for the duration of their service.

Members of the appeals panel will be eligible to receive travel and subsistence allowances where applicable, and will where appropriate, be compensated for any loss of earnings or expenses.

The admissions authority will ensure that members of the appeal panel have been indemnified against any reasonable legal costs and expenses they incur in connection with any decision or action taken in good faith whilst acting as members of the appeal panel.

5. Appeal hearings

Timetable

The admissions authority will set a timetable for organising and hearing appeals that:

- 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.
- Ensures that appellants receive at least 10 school days' notice of their appeal hearing.
- Includes reasonable deadlines for appellants to submit additional evidence, for admission authorities to submit their evidence, and for the clerk to send appeal papers to the panel and parties.
- Ensures that decision letters are sent within 5 school days of the hearing wherever possible.

The admissions authority will publish the appeals timetable on their website by 28 February each year.

The admissions authority will ensure that appeals lodged by the appropriate deadlines are heard within the following timescales:

- For applications made in the normal admissions round, appeals will be heard within 40 school days of the deadline for lodging appeals.
- For late applications, appeals will 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 will be heard within 30 school days of the appeal being lodged.

Where the offer of a place would have been conditional upon exam results, appeals will 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 will be heard within 40 school days of the deadline for lodging appeals.

Any appeals submitted after the appropriate deadline will still be heard, in accordance with the timescales set out in the table published by the LA.

Notifying appellants of the right to appeal and the appeal hearing

When informing a parent of their unsuccessful admissions application, the admissions authority will ensure that parents have been informed of their right to submit a school admission appeal in accordance with statutory guidance and in line with the policy requirements mentioned above.

The admissions authority will provide appellants with written notification of the date of the hearing and any arrangements no later than 10 school days before the hearing. This notification will include the deadline for the submission of any further evidence that was not sent in the initial appeal.

Appellants will be informed that any information or evidence not submitted by the deadline might not be considered at the appeal.

The admissions authority will comply with any reasonable request for information from parents to help them prepare their case for the appeals hearing.

The admissions authority will ask appellants whether they intend to call any witnesses or be represented at the hearing and inform them that they may waive their right to 10 school days' notice of the hearing if they so wish.

Evidence

All evidence relating to the appeal hearing will be passed on to the clerk. This evidence will include details of:

- How the admission arrangements and the co-ordinated admissions scheme apply to the appellant's application.
- Reasons for the decision to refuse admission.
- How the admission of an additional child would cause prejudice to the provision of efficient education or efficient use of resources.

The clerk will send all the papers required for the hearing to both parties and the members of the panel seven days before the hearing.

The appeal panel will make a decision regarding whether any material not submitted by the specified deadline is to be considered. In so doing, the panel will take into account its significance and the effect of a possible need to adjourn the hearing.

Attendance and representation

It will be the responsibility of the admissions authority to make arrangements for appeal hearings. Appeal hearings may be held in person, remotely by video conference or a mixture of the two (a hybrid hearing).

Appeal hearings held entirely by telephone will only be permitted where video conferencing cannot be used relating to connectivity or accessibility and if the appellant and presenting officer both agree.

Regardless of the forum chosen, appeal panels will allow appellants the opportunity to make oral representations.

The admissions authority will provide a presenting officer to attend the hearing and present the decision not to admit the child and to answer detailed questions about the case being heard and about the school.

Appellants may attend in person or be represented by another individual. Where appellants cannot attend, a decision will be made based on the written evidence.

The appeal hearing

Where appeal hearings are held in person, the admissions authority will take all reasonable steps to ensure the venue is appropriate, accessible to appellants, and has a suitable area for appellants and presenting officers to wait separately from the panel before and between appeals.

Appeal hearings that are held remotely will be held in such a way that means the appeal is capable of being heard fairly and transparently. Attending parties will be able to present their cases fully and the admissions authority will be satisfied that each participant has access to facilities that allow them to engage in the hearing at all times.

Where a hybrid hearing is to take place, the arrangements above will be complied with as appropriate.

All hearings will be held in private and conducted in the presence of all panel members and parties, whether in-person or through remote connection.

The chair of the panel will ensure that no single party is left alone with the panel in the absence of the other. Where one party is unable to or has failed to attend, the clerk will always remain with the panel and remaining party.

The clerk will notify the parties of the order of the proceedings in advance of the hearing. The order of appeal hearings will be as follows:

- Case for the admissions authority
- Questioning by the appellant(s) and panel.
- Case for the appellant(s).
- Questioning by the admissions authority and panel.
- Summing up by the admissions authority
- Summing up by the appellant(s)

The admissions authority may, where necessary and appropriate, vary the order for grouped multiple appeals.

When hearing a parent's and a child's appeals jointly the panel will give both the parent and the child the opportunity to present their case - each may present a different argument.

The panel will hear all the evidence on an issue before deciding that issue. It may decide issues as they occur during a hearing or at the end, but will retire to reach such decisions

Multiple appeals

The admissions authority understands that there may be multiple appeals received in relation to the same school. Where this is the case, it will ensure that:

- All reasonable steps are taken to ensure that multiple appeals for a school are heard by one panel with the same members.
- Each panel will make its own decision independently where more than one panel has to consider appeals for the same school.

- A panel hearing multiple appeals will not make decisions on any of those appeals until all the appeals have been heard.

- The presenting officer does not produce new evidence in later appeals that was not presented in earlier appeals. Doing so 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 will ensure that the panel considers what bearing that evidence may have on all appeals.

Guiding principles for appeal panels

The admissions authority will ensure that appeal panels operate according to the principles of natural justice and adhere to the following principles:

- Members of the panel will not have a vested interest in the outcome, or any involvement in an earlier stage, of the proceedings.

- Each side will be given the opportunity to state their case without unreasonable interruption.

- Written material and evidence must have been seen by all the parties.

Reaching a decision

The panels will ensure that appeals are decided by a simple majority of votes cast. Where the votes are equally divided the panel chair will have a second or casting vote.

When reaching a decision the appeal panel will either uphold or dismiss an appeal. It will not uphold an appeal subject to any specified condition and will ensure that any decision that a child shall be admitted to a school is binding on the admissions authority.

Notification of the decision

Once a decision has been made the panel will communicate the decision of each appeal, including the reasons for that decision, in writing to the appellant, the admission authority and the LA.

The clerk or chair will sign the decision letter and send it to the parties as soon as possible after the hearing but not later than five school days, unless there is a good reason.

In the case of applications outside the normal admissions round, the admissions authority will make arrangements to ensure that the child is admitted without unnecessary delay.

The panel will ensure that the decision is easily comprehensible so that the parties can understand the basis on which the decision was made.

The decision letter will contain the following:

- A summary of relevant factors that were raised by the parties and considered by the panel

- Clear reasons for the panel's decision

- How, and why, any issues of fact or law were decided by the panel during the hearing

Notes and records of proceedings

The clerk will make accurate records of the points raised at the hearing which includes the following information:

- A record of the proceedings
- Attendance
- Voting
- Reasons for decisions

Appropriate arrangements will be made for the safe storage of these records for a minimum of two years.

6. Reaching decisions on appeals

Two stage process

When reaching a decision, the admissions authority will follow the two stage decision making process outlined in the 'School Admission Appeals Code', except for infant class size appeals.

First stage – examining the decision to refuse admission

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

- Whether the admission arrangements complied with:
  - The mandatory requirements of the School Admissions Code
  - Part 3 of the School Standards and Framework Act 1998
- Whether the admission arrangements were correctly and impartially applied in the case in question.

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

The panel will refer to the LA and the admission authority (where appropriate) any aspects of the admission arrangements that do not comply with admissions law.

The panel will uphold the appeal at the first stage where either of the following scenarios apply:

- 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.
- It finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources,

Where several 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 will proceed to the second stage.

The panel will show that it has proceeded to the second stage where the following apply:

- It finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child.

- 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 will balance the prejudice to the school against the appellant's case for the child to be admitted to the school.

The panel will 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.

In circumstances where the panel considers that the appellant's case outweighs the prejudice to the school, it will ensure that the appeal is upheld.

The panel will not compare individual cases when deciding whether an appellant's case outweighs the prejudice to the school, unless the requirement below applies:

Where the panel has found there are more cases which outweigh prejudice than the school can admit, it will compare cases and uphold those with the strongest case for admission.

Where a certain number of children could be admitted without causing prejudice, the panel will make the decision to uphold the appeals of at least that number of children**.**

Consideration of prejudice

When taking into account the school's published admission number, the school has been able to demonstrate prejudice over and above the fact that the published admission number has already been reached.

In making decisions the panel will not reassess the capacity of the school but will consider the impact on the school of admitting additional children.

In reaching a decision as to whether there would be prejudice the panel will ensure that it has considered the following factors:

- 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

- 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

- The impact of the locally agreed Fair Access Protocol

- The impact on the organisation and size of classes, the availability of teaching staff, and the effect on children already at the school

The appeal panel will follow the two stage process where applicants have been refused admission because there are more eligible children than places available and oversubscription criteria have been applied.

In the case of an appeal where the child did not reach the specified entry requirements, the panel will not make its own assessment of a child's ability – it will decide whether the decision that the child was not of the required standard was reasonable considering the information available.

In the above circumstances, the panel will consider whether any process in place to consider such cases was carried out in a consistent and objective way – e.g. where a pupil had not been studying in England and therefore did not have GCSEs.

Waiting lists

The appeals panel will not make any decision because:

- A child has been placed on the waiting list.

- Appeals have not been made in respect of other children on the waiting list.

The appeals panel will not make any decision relating to the placement of a child on a waiting list.

Expressing a preference and Fair Access Protocols

If an application has been refused despite there being places available, the governing body will present their case for refusal. In so doing, they will demonstrate how admission of the child would prejudice the provision of efficient education or efficient use of resources.

When considering such an appeal, in addition to considering the appellant's arguments for their child to be admitted, the panel will take into account the requirements set out in the LA's Fair Access Protocol.

The panel will carefully consider whether the presenting officer has clearly proven that admission of the child would be prejudicial to the school or other children.

7. Further appeals and complaints

Appellants will not have the right to more than one appeal in respect of the same school for the same academic year unless, in exceptional circumstances, the LA has accepted a second application from the appellant due to a material change in the circumstances of the parent, child or school but still refused admission. Appellants can apply for a place at the school for a different academic year.

Appellants may complain about maladministration on the part of an appeal panel to the Local Government and Social Care Ombudsman. The admissions authority will inform parents about the arrangements for making a complaint.

8. Monitoring and review

This policy will be reviewed by the admissions authority on an annual basis. Any changes to this policy will be communicated to all staff and other interested parties.

The next scheduled review date for this policy is September 2028.

We want all at SHS to believe in and maintain the values of our school:

