

Appeals Process for Parents/Guardians who Disagree with Section 3 (Special Educational Provision) of the Draft Determination (Form E)

Section 1: Principles of the Appeals Policy

The process of Appeal will be governed by the following guidelines:-

- Those considering appeals will do so in a fair, reasonable and non-discriminatory way.
- Appeals will be heard and decided in a reasonable time.
- The process of appeal and the procedures followed will be open and transparent.

Section 2: Lodging an Appeal

An appeal should be lodged within a reasonable time of the communication of the draft determination and in any event within 4 weeks of its date of issue.

Appeals out of this time may be heard in exceptional circumstances in the absolute discretion of the Senior Officer in the Education Department appointed as Co-ordinator under the next section.

The Appeal should be in writing and should set out in detail the basis upon which it is submitted that the original decision in section 3 of the draft determination falls outside the range of possible reasonable decisions.

Section 3: Convening of Appeal Panel

Upon receipt of an Appeal a member of the Senior Management Team within the Education Department with no previous involvement in the case shall be appointed to co-ordinate the appeal.

The Co-ordinator will determine whether the Appeal has been received within the stated time limit. A communication which does not set out the basis upon which the Appellant submits that the original decision falls outside the range of possible reasonable decisions, shall not be regarded as a valid Appeal. Where appropriate, further information should be sought from the Appellant.

Where the Appeal is to be heard, the Co-ordinator will establish and convene the Appeal Panel, which will comprise three members:

An independent Chairperson

An Independent Educational Psychologist

A Headteacher (who is not from a school identified in the draft determination)

Where possible, the Appeal should be heard within 6 weeks after the day a valid Appeal has been received by the Education Department.

Section 4: The Appeal

The Appeal may be on a consideration of the papers only in which case the Appeals Panel will normally require the following:-

1. The detailed Appeal
2. Any response submitted by or on behalf of the Educational Officer who signed the draft determination
3. The papers before the Educational Officer who produced the draft determination and any minutes of relevant meetings.

If requested by the Appellant, oral representations may be heard.

Whether or not oral representations are heard, the onus is upon the Appellant to prove on the balance of probabilities that the original determination or part thereof, falls outside the range of possible reasonable decisions.

In the event that oral representations are made, the opening submissions will be made by the Appellant, who may be accompanied by a friend for support. The supporter may make the oral representation on the Appellant's behalf, if the Appellant feels unable to do so.

A response will be made by or on behalf of the Education Officer responsible for the draft determination.

The Appeal Panel may ask questions for further clarification, either from the Appellant or Education Officer. The Co-ordinator will be available to the Appeal Panel on request, for advice on procedural matters.

In the event of oral representations being made, both parties shall withdraw from the venue after all representations have been made.

Section 5: The Decision

The Panel will decide if the determination in Section 3 of the draft determination is within the range of possible reasonable decisions. If it decides that this is not the case, it will make a recommendation for action by the Education Department.

The decision of the Appeal Panel will be notified to the parties in writing within seven days of the Appeal, by the Co-ordinator on behalf of the Appeal Panel.