

SCHEDULE 1

Regulation 3

CONSTITUTION OF APPEAL PANELS

^{F1}**A1.**

Textual Amendments

F1 Sch. 1 para. A1 expiry of earlier inserting provision S.I. 2020/479, **reg. 10** (30.9.2022) by The Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 (S.I. 2020/479), **reg. 2** (as amended by S.I. 2021/996, regs. 1, **2(3)**)

Arrangements made by a local education authority

1.—(1) Where the arrangements are those specified in regulation 3(a), an appeal panel is to consist of three or five members appointed by a local education authority from —

- (a) persons who are eligible to be lay members; and
- (b) persons who have experience in education or who are acquainted with educational conditions in the area of the authority; or
- (c) persons who are parents of registered pupils at a school.

(2) Of the members of an appeal panel —

- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
- (b) at least one must be a person falling within sub-paragraph (1)(b) or (1)(c).

(3) The local education authority must appoint one member of the panel to act as chair.

(4) For the purposes of this paragraph a person is eligible to be a lay member if he or she is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).

(5) Sufficient persons may be appointed by the authority under this paragraph to enable two or more appeal panels to sit at the same time.

(6) No person is to be a member of an appeal panel if he or she is disqualified by virtue of sub-paragraph (7).

(7) The following persons are disqualified from membership of an appeal panel —

- (a) any member of the authority or governing body of the school in question;
- (b) any person employed by the authority or the governing body or governing bodies, other than a person employed as a teacher;
- (c) any person who has, or at any time has had, any connection with —

(i) the authority or the school, or

(ii) any person within paragraph (b)

of a kind which might reasonably be taken to raise doubts about his or her ability to act impartially in relation to the authority or the school.

(8) A person employed as a teacher by the authority is not to be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).

(9) A person is not to be a member of an appeal panel for the consideration of an appeal against a decision if he or she was among those who made the decision or took part in discussions as to whether the decision should be made.

(10) A person who is a teacher at a school is not to be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.

(11) Where, at any time after an appeal panel has begun to consider an appeal, any of the members —

- (a) dies; or
- (b) becomes unable through illness to continue as a member; or
- (c) becomes unable to continue as a member because doubts may reasonably be raised about his or her ability to act impartially,

the panel may continue with their consideration and determination of the appeal so long as the number of remaining members is not less than three and the requirements of sub-paragraph (2) above are satisfied.

Arrangements made by a governing body

2.—(1) Where the arrangements are those specified in regulation 3(b), a panel is to consist of three or five members appointed by the governing body from —

- (a) persons who are eligible to be lay members; and
- (b) persons who have experience in education or who are acquainted with educational conditions in the area of the authority; or
- (c) persons who are parents of registered pupils at a school.

(2) Of the members of an appeal panel —

- (a) at least one must be a person who is eligible to be a lay member and is appointed as such; and
- (b) at least one must be a person falling within sub-paragraph (1)(b) or (1)(c).

(3) The governing body must appoint one member of the panel to act as chair.

(4) For the purposes of this paragraph a person is eligible to be a lay member if he or she is a person without personal experience in the management of any school or the provision of education in any school (disregarding any such experience as a governor or in any other voluntary capacity).

(5) Sufficient persons may be appointed by the governing body under this paragraph to enable two or more appeal panels to sit at the same time.

(6) No person is to be a member of an appeal panel if he or she is disqualified by virtue of sub-paragraph (7).

(7) The following persons are disqualified from membership of an appeal panel —

- (a) any member of the local education authority by whom the school is maintained or of the governing body;
- (b) any person employed by the authority or the governing body, other than a person employed as a teacher;
- (c) any person who has, or at any time has had, any connection with —
 - (i) the authority or the school, or
 - (ii) any person within paragraph (b),of a kind which might reasonably be taken to raise doubts about his or her ability to act impartially in relation to the authority or the school.

(8) A person employed as a teacher by the authority is not to be taken, by reason only of that employment, to have such a connection with the authority as is mentioned in sub-paragraph (7)(c).

(9) A person who is a teacher at a school is not to be a member of an appeal panel for the consideration of an appeal involving a question whether a child is to be admitted to that school.

(10) Where, at any time after an appeal panel has begun to consider an appeal, any of the members —

- (a) dies; or
- (b) becomes unable through illness to continue as a member; or
- (c) becomes unable to continue as a member because doubts may reasonably be raised about his or her ability to act impartially,

the panel may continue with their consideration and determination of the appeal so long as the number of remaining members is not less than three and the requirements of sub-paragraph (2) above are satisfied.

Joint arrangements by two or more governing bodies

3.—(1) Where arrangements are those specified in regulation 3(c), paragraph 2 of this Schedule is to apply as if—

- (a) (except in sub-paragraph (7)) any reference to the governing body were a reference to the governing bodies of both or all the schools; and
- (b) in sub-paragraph (7), any reference to the governing body of the school in question or to that school were a reference to any of those governing bodies or to any of those schools.

Joint arrangements by a local education authority and one or more governing body

4. Where the arrangements are those specified in regulation 3(d), paragraph 1 of this Schedule is to apply in relation to those arrangements as it applies in relation to arrangements made by a local education authority such as are referred to in regulation 3(a) but as if in sub-paragraph (7) any reference to the governing body of the school in question or to that school were a reference to the governing body of any school to which the arrangements relate or to any such school.

Appeals by a governing body under section 95

5.—(1) Subject to sub-paragraph (2), where the arrangements are those specified in regulation 3(e), paragraph 1 of this Schedule is to have effect as it has effect where the arrangements are those specified in regulation 3(a).

(2) A person is not to be a member of an appeal panel for the consideration of an appeal under section 95(2) if he or she has to any extent been involved in any previous consideration of the question whether the child in question should or should not be reinstated at any school from which he or she has at any time been permanently excluded, or in any previous appeal relating to the child under section 95(2).

Textual Amendments

F2 Sch. 2 substituted (22.4.2009) by [The Education \(Admission Appeals Arrangements\) \(Wales\) \(Amendment\) Regulations 2009 \(S.I. 2009/823\)](#), regs. 1(1), **2(3)**

[^{F3} Appeal hearings

- A1.**—(1) An admission authority may decide an appeal hearing must be held—
- (a) in person,
 - (b) wholly through the use of remote access (“a remote appeal”), provided the conditions in sub-paragraph (4) are met, or
 - (c) partly in person and partly through the use of remote access (“a hybrid appeal”), provided the conditions in sub-paragraph (4) are met.
- (2) A remote appeal may only be held entirely by live audio link if—
- (a) a live video link is not available for reasons relating to internet connectivity, and
 - (b) both the appellant and presenting officer agree.
- (3) If an admission authority decides either that a remote appeal or a hybrid appeal must be held it must make all necessary arrangements for the appeal panel to have access to the necessary remote access equipment.
- (4) The conditions referred to in sub-paragraphs (1)(b) and (c) are—
- (a) the parties are able to present their case fully,
 - (b) each participant has access to the electronic means to allow them to hear and be heard and (where using a live video link) see and be seen, throughout the appeal hearing, and
 - (c) the admission authority considers that the appeal is capable of being heard fairly and transparently.
- (5) The admission authority may decide that an appeal will be decided on the written information submitted if either the presenting officer or the appellant are unable to attend on the date of the hearing.]

Textual Amendments

F3 Sch. 2 para. A1 inserted (3.5.2023) by The Education (Admission Appeals Arrangements) (Wales) (Amendment) Regulations 2023 (S.I. 2023/420), regs. 1(2), **3(5)(a)**

Appeals made pursuant to section 94

- 1.**—(1) In this paragraph—
- “appeal” means an appeal made under the arrangements specified in regulation 3(a) to (d); and
- “a decision about sixth form education” means a decision—
- (a) made in relation to a preference expressed in accordance with arrangements made under section 86A(1) as to where education should be provided for a child; or
 - (b) refusing permission for a child to enter the sixth form of the school to which the child has been admitted.
- (2) Particulars of the arrangements for making an appeal, including information containing the contact details for whichever body or bodies are responsible for those arrangements, must be set out in any document containing a notification to parents of—
- (a) a decision referred to in section 94(1)(za), (b) and (2) refusing their child admission to a school for which the parents have expressed a preference in accordance with the arrangements made under section 86(1); or
 - (b) a decision referred to in section 94(1)(a) as to the school at which education is to be provided for their child.

(3) In the case of a decision about sixth form education, notices must be sent to the child and the child's parents containing the following—

- (a) notification of —
 - (i) a decision referred to in section 94(1)(za), (b) and (2) refusing the child admission to a school for which the child or any parent of the child has expressed a preference in accordance with the arrangements made under section 86A(1);
 - (ii) a decision referred to in section 94(1)(a) as to the school at which education is to be provided for the child; or
 - (iii) a decision referred to in section 94(1A) or (2A) refusing permission for a child who has already been admitted to a school to enter the school's sixth form;
- (b) particulars of the arrangements for making an appeal, including information containing the contact details for the appropriate authority; and
- (c) a statement explaining that where a child and any parent of the child make separate appeals in respect of the same school, the appeals must be heard together.

(4) Where a child and any parent of the child make separate appeals in respect of the same school, the appeals must be heard together.

(5) An appeal must be by notice in writing setting out the grounds on which it is made.

(6) An appeal must give the appellant an opportunity of ^{F4}... making oral representations, and allow him or her to be accompanied by a friend or to be represented.

(7) An appeal must be heard in private except where the body or bodies by whom the arrangements under section 94 are made direct otherwise; but—

- (a) if the panel so directs, one member of the [^{F5}local education authority] may attend, as an observer, any hearing of an appeal by an appeal panel constituted in accordance with paragraph 1 of Schedule 1;
- (b) if the panel so directs, one member of the governing body of the school in question may attend, as an observer, any hearing of an appeal by an appeal panel constituted in accordance with paragraph 1 or 2 of Schedule 1 (or in accordance with paragraph 2 as it applies by virtue of paragraph 3 of that Schedule); and
- (c) if the panel so directs, any person may attend a hearing of an appeal for the following purposes—
 - (i) training; or
 - (ii) appraisal of the performance of clerks or appeal panel members.

(8) For the purposes of sub-paragraph (7), an appeal to an appeal panel constituted in accordance with paragraph 1 of Schedule 1, as it applies by virtue of paragraph 4 of that Schedule, is to be treated—

- (a) as an appeal to an appeal panel constituted in accordance with paragraph 1 of that Schedule if it relates to a community or voluntary controlled school; and
- (b) as an appeal to an appeal panel constituted in accordance with paragraph 2 of that Schedule, if it relates to a foundation or voluntary aided school.

(9) In the event of a disagreement between the members of an appeal panel, the appeal under consideration is to be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chair of the panel is to have a second or casting vote.

(10) The decision of an appeal panel and the grounds on which it is made must be communicated by the panel in writing to—

- (a) the appellant and the [^{F5}local education authority],

- (b) in the case of an appeal heard jointly with another appeal in accordance with paragraph 1(4), to the appellant in the other appeal; and
- (c) in the case of an appeal to an appeal panel constituted in accordance with paragraph 2 of Schedule 1, (or in accordance with that paragraph as it applies by virtue of paragraph 3 of that Schedule), to the governing body by whom or on whose behalf the decision appealed against was made.

(11) For the purposes of sub-paragraph (10), an appeal to an appeal panel constituted in accordance with paragraph 1 of Schedule 1, as it applies by virtue of paragraph 4 of that Schedule, is to be treated as an appeal to an appeal panel constituted in accordance with paragraph 2 of that Schedule, if it relates to a foundation or voluntary aided school.

(12) Subject to sub-paragraphs (2) to (11), all matters relating to the procedure on appeals, including the time within which they are to be brought, are to be determined by the appropriate authority.

Textual Amendments

- F4** Words in Sch. 2 para. 1(6) omitted (3.5.2023) by virtue of [The Education \(Admission Appeals Arrangements\) \(Wales\) \(Amendment\) Regulations 2023 \(S.I. 2023/420\)](#), regs. 1(2), **3(5)(b)**
- F5** Words in Sch. 2 substituted (15.7.2009) by [The Education \(Admission Appeals Arrangements\) \(Wales\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/1500\)](#), regs. 1(1), **2(2)**

Appeals made pursuant to section 95

2.—(1) In this paragraph “appeal” means an appeal made under the arrangements specified in regulation 3(e).

(2) Where any such decision as is mentioned in section 95(2) is made by or on behalf of the [^{F5}local education authority], the authority must give the governing body of the school notice in writing—

- (a) of that decision; and
- (b) of the governing body’s right to appeal against the decision in accordance with sub-paragraph (3).

(3) An appeal by the governing body against any such decision must be made not later than the fifteenth school day after the day on which they are given notice under sub-paragraph (2).

(4) An appeal must be by notice in writing setting out the grounds on which it is made.

(5) The appeal panel must meet to consider an appeal on such date as the [^{F5}local education authority] may determine but the date so determined must not be later than the fifteenth school day after the day on which the notice referred to in sub-paragraph (4) is received by that authority.

(6) On an appeal the panel must allow—

- (a) the [^{F5}local education authority] and the governing body to make written representations;
- (b) an officer of the authority nominated by the authority, and a governor nominated by the governing body, to ^{F6}... make oral representations; and
- (c) the governing body to be represented.

(7) Appeals must be heard in private except when the [^{F5}local education authority] direct otherwise; but—

- (a) if the panel so direct, one member of the [^{F5}local education authority] may attend, as an observer, any hearing of an appeal by an appeal panel;

Changes to legislation: There are currently no known outstanding effects for the The Education (Admission Appeals Arrangements) (Wales) Regulations 2005. (See end of Document for details)

(b) if the panel so direct, any person may attend a hearing of an appeal for the following purposes—

(i) training; or

(ii) appraisal of the performance of clerks or appeal panel members.

(8) Two or more appeals may be combined and dealt with in the same proceedings if the appeal panel consider that it is expedient to do so because the issues raised by the appeals are the same or connected.

(9) In the event of a disagreement between the members of an appeal panel, the appeal under consideration is to be decided by a simple majority of the votes cast and, in the case of an equality of votes, the chair of the panel is to have a second or casting vote.

(10) The decision of an appeal panel and the grounds on which it is made must—

(a) be communicated by the panel in writing to the [F5local education authority] and the governing body; and

(b) be so communicated by the end of the second day after the conclusion of the hearing of the appeal.

(11) Subject to sub-paragraphs (2) to (10), all matters relating to the procedure on appeals are to be determined by the [F5local education authority].]

Textual Amendments

F5 Words in Sch. 2 substituted (15.7.2009) by [The Education \(Admission Appeals Arrangements\) \(Wales\) \(Amendment No. 2\) Regulations 2009 \(S.I. 2009/1500\)](#), regs. 1(1), **2(2)**

F6 Words in Sch. 2 para. 2(6)(b) omitted (3.5.2023) by virtue of [The Education \(Admission Appeals Arrangements\) \(Wales\) \(Amendment\) Regulations 2023 \(S.I. 2023/420\)](#), regs. 1(2), **3(5)(c)**

F7SCHEDULE 3

Regulations 3, 5 and 9

Textual Amendments

F7 Sch. 3 expiry of earlier inserting provision [S.I. 2020/479](#), **reg. 12** (30.9.2022) by [The Education \(Admission Appeals Arrangements\) \(Wales\) \(Coronavirus\) \(Amendment\) Regulations 2020 \(S.I. 2020/479\)](#), **reg. 2** (as amended by [S.I. 2021/996](#), regs. 1, **2(3)**)

Changes to legislation:

There are currently no known outstanding effects for the The Education (Admission Appeals Arrangements) (Wales) Regulations 2005.