

SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

Local authorities are the admissions authority for community schools and voluntary controlled schools and school governing bodies are the admission authorities for voluntary aided and foundation schools. Admission authorities are responsible for setting and applying a school's admission arrangements.

Parents have a right to apply for a school place at any school they would like to attend. Parents whose child is refused a school place, or young people refused a place in a school sixth form, have a statutory right of appeal to an independent appeal panel.

The ongoing Coronavirus pandemic and measures to reduce the spread of the COVID-19 virus has the potential to impact on an admission authority's ability to hold school admission appeal hearings in person, secure sufficient panel members and to meet relevant deadlines.

The Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 and The Education (Admission Appeals Arrangements (Wales) Coronavirus (Amendment)(Amendment) Regulations 2020 temporarily amended the Education Admission Appeals Arrangements Regulations 2005 and the School Admission Appeals Code to allow admission appeals to take place until 30 September 2021 despite the restrictions in place to limit the spread of Coronavirus. Any appeals in train on 30 September 2021 are able to conclude under these temporary arrangements.

Wales moved to alert level zero on 7 August 2021. To ensure appeals are independent a neutral venue must be used for appeals. This might be within the local authority's buildings or another neutral venue. However, individual risk assessments may determine that appeals may not take place within premises usually used for this purpose. In addition, individuals must isolate for 10 days if they have symptoms of Covid-19 or have a positive test result. This might impact on the availability of admission appeal panel members or the ability of appellants to attend in person at any one time. It is therefore considered prudent to extend the current arrangements to ensure that admission appeals can continue to take place until the end of September 2022 despite any practical difficulties or restrictions that may be in place during to limit the spread of the virus.

The Education (Admission Appeals Arrangements)(Wales) Coronavirus) (Amendment)(Amendment) Regulations 2021 therefore extend the current changes until 30 September 2022. Any appeals in train on 30 September 2022 will be able to conclude under these temporary arrangements. The Amendment Regulations:

- Put beyond doubt that appeals do not have to take place face-to-face. The legislation currently provides that an appeal must give the appellant "an opportunity of appearing and making oral representations" which in our view gives flexibility. However, the amendment regulations expressly provide the flexibility to meet virtually or by telephone.

- Disapply the normal requirements relating to the venue for admission appeals where they are happening remotely or on paper instead of in person.
- Relax the rules with regard to what happens if one of the members of a panel of three withdraws (temporarily or permanently) to make it permissible for the panel to continue with and conclude the appeal as a panel of two. .

Admission Appeals Panels are still required to have the services of a clerk to provide advice on admissions law maintain an accurate record of the hearing and ensure that the procedure is fair. The complaints process remains unchanged so that parents are still able to complain about maladministration on behalf of the appeals panel.

The purpose of the temporary amendments is to give admission authorities as much flexibility as possible to manage appeals during the pandemic in a way that best suits local circumstances and ensure that families appealing an admission decision are supported and are not disadvantaged by any measures that may be in place to protect public health. The changes mean that admission authorities will have sufficient time to deal with the annual peak in appeals for children due to start new schools at the beginning of September 2022. Parents will continue to have the right to appeal a decision to refuse admission to any school.

Safeguards have been built into the Appeal Amendment Regulations 2021 to ensure that appellants still have adequate time and notice to lodge appeals, and that their appeals will continue to be heard fairly, as quickly as possible, and in line with the requirements of natural justice.

Admission authorities are supportive of an extension to the temporary amendments, suggesting the flexibility afforded by the temporary amendments is advantageous for both local authorities and appellants.

SECTION 7. CONCLUSION

7.1 How have people most likely to be affected by the proposal been involved in developing it?

We have engaged with a number of stakeholders, including the Association of Directors of Education, Wales (ADEW) school admissions authority group which has representation from all local authorities in Wales and diocesan authorities along with a number of individual local authority officers responsible for appeals.

7.2 What are the most significant impacts, positive and negative?

The most significant positive impact is that parents retain their right to have their appeal heard and that children and young people are able to secure a school place at the earliest opportunity despite the practical difficulties or restrictions imposed by the Coronavirus pandemic.

Where appeals are unable to take place in person there may be a potential negative impact on certain groups in who may be digitally excluded in taking part in virtual appeals, but they may use the option of a written statement and present their case in this way. Feedback from local authorities and admission authorities on the temporary changes which have been in place since May 2020 has been extremely positive and we are not aware of any negative feedback from parents in respect of the temporary changes.

7.3 In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**
- **avoid, reduce or mitigate any negative impacts?**

The temporary changes will have a positive impact on wellbeing of parents and children in terms of allowing appeals to continue which means that children are able to secure a school place as soon as possible, keeping a period of anxiety and uncertainty to a minimum.

The Clerk to the Appeals Panel is encouraged to engage with appellants prior to the hearing to understand their requirements and ensure they are able to participate as fully as possible.

This includes when considering an appellant's attendance and representation at the hearing where this involves remote access and the duty to consider any reasonable adjustments that may be needed. The clerk will be responsible for ensuring that any decisions taken in relation to requests for reasonable adjustments are recorded as part of the appeal record and confirmed with the appellant in writing prior to the appeal hearing.

Admission authorities are well-versed with understanding and providing for the needs of families within their locality, including the provision of BSL, interpreters and appeals papers in alternative formats.

The Appeals Code provides that the appellant may be accompanied or represented by a friend, adviser, interpreter or signer who may speak on the appellant's behalf. An independent advocacy service could be used if necessary.

The Clerk to the Appeals Panel is responsible for ensuring compliance with the Equality Act 2010 and the Public Sector Equalities Duty.

7.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The Regulations will be kept under review. We will continue to liaise with local authorities and admission authorities regarding implementation of the temporary changes and monitor any feedback received from parents. The Education (Admission Appeals Arrangements (Wales) (Amendment)(Amendment) Regulations 2021 expire at the end of September 2022.