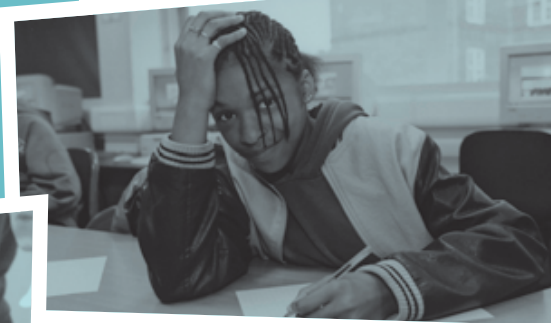


my child in school



Appealing for a School

a practical guide to
parents' legal rights



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Important notes

- The information in this booklet is based on the laws of England.
- If your child has a statement of special educational needs/EHC Plan this appeals procedure does not apply. (see page 19)

Definitions and abbreviations

Admission Authority The body that decides the admission arrangements for a school (see page 4).

Choice Advice The Local Authority have a legal duty to provide advice and help to parents who are applying for a school place. They may employ Choice Advisers to carry out this role.

In year applications If you apply for a school place at any time other than when your child is starting in Reception or when your child is transferring to secondary school Year 7 this will be classed as an in-year application.

Local Authority (LA) The Local Authority deals with the administration of a local council.

Local Authority Admissions Department is responsible for co-ordinating school admissions in the local area.

Primary admissions round Applying for a school place when your child is due to start primary school for the first time.

Secondary admissions round Applying for a school place when your child is due to move from primary to secondary school.

Sixth-form appeals Young people (above compulsory school age) applying for a place in a school sixth form can appeal in their own right if they are refused a place. Their parents still also have a right to appeal.

Unreasonable decision An unreasonable decision by an admission authority is a decision which is not rational in terms of its legal responsibilities or is outrageous in its defiance of logic. It is extremely difficult to win an infant class size appeal on this ground.

“My child did not get a place at the school I wanted. What can I do?”

This can be an upsetting time for you and your child. You may feel very frustrated and your child may be worried about their future. However, don't panic because there are a number of things you can do.

Your options

Waiting lists

Ask for your child's name to be added to the waiting list for any schools that you applied for but did not get offered a place. Admission authorities must keep a waiting list for at least one term. Ask the Admission Authority how the waiting list is ordered. Be aware that children can move down waiting lists if other people who have greater priority join the list.

Other schools

If there are other schools that you did not previously apply for but you prefer to the school you have been given ask your Local Authority (LA) Admissions Department if there are vacancies. If not, you could still apply and go on the waiting list or appeal for a place at the school.

Appeal for a school place

You have the right to explain to an appeal panel why your child should go to the school even though it is full. School admission appeals must be carried out in accordance with the School Admission Appeals Code (see Further help page 19).

ACE Education Advice

If you have been given a place at a school that you do not want it is always a good idea to arrange a visit to the school. You may change your opinion of the school once you have spoken to staff, seen what the school does and addressed any specific concerns you may have about your child.

The appeals system

Your right to appeal

If your child has been refused a school place you must be told in writing why your application was unsuccessful and that you have the right to make an appeal.

The timing of your application for a school place does not affect your right to make an appeal. You can appeal even if you have already accepted another school place and you can appeal for more than one school.

Exceptions

If your child has been **permanently excluded twice in the last two years** and is refused a school place you may not be able to appeal.

If your child has **challenging behaviour** and you are applying outside the normal admissions round a school may refuse your application in very limited circumstances, but you can still appeal. If your child's behaviour is related to a disability you may be able to claim disability discrimination.

In both these cases you should take further advice (see Further help page 19).

What the appeal panel will look at

For most appeals the panel will check whether a mistake was made in applying the admission arrangements and if the school could take extra pupils. They will also consider whether the admission arrangements are lawful. The panel must refer to the Local Authority and the Admissions Authority for the school any admission arrangements that do not comply with the law.

The panel will then go on to consider whether the problems faced by your child if they do not go to the school outweigh the problems the school will face if they have to take an extra child. If your case outweighs the school's case you will win the appeal and your child will be given a place at the school.

ACE Education Advice

Think twice before you turn down a place you have been offered. Accepting a place does not affect your right to appeal. Turning down a place will not give you priority for other schools and you may end up without a school place altogether.

If you are appealing about a place in an infant class

There is a legal limit of 30 pupils per qualified teacher in infant classes (Reception, Year 1 and Year 2. If a school mixes year groups a class with some Year 3 children may be affected).

Infant class size appeals are when a school place has been refused on the grounds that the school cannot take more than the legal limit of 30 pupils in a class. If the school were to admit more than 30 pupils per teacher they would have to take relevant measures such as employing another teacher or creating an extra classroom.

Infant class size appeals are handled differently to other appeals. The appeal panel can only consider a number of very specific factors. In an ordinary appeal, the panel can balance all your reasons for wanting a particular school against the school's reasons for not admitting an extra pupil, in an infant class size appeal, the panel cannot do this.

The appeal panel can only look at:

- if admitting an extra child would breach the limit of 30 pupils per teacher
- the lawfulness of the admission arrangements
- if a mistake was made in not offering your child a place and/or
- if it was unreasonable to refuse your application.

In law “unreasonable” has a very narrow meaning (see inside cover definitions).

In an infant class size appeal the panel are reviewing the admission authority's decision to refuse your child a place and can only consider information that was available to the admission authority at the time they made their decision. If you bring new information to your appeal that was not part of your original application the panel may not be able to take this into account.

It is for you to decide what you want to present to the appeal panel but the case that you present should focus on showing that either:

- the admission arrangements were not lawful and if they had been your child would have been offered a place; or
- a mistake was made which meant that your child was not offered a place; or
- that when considering your application the admission authority made a decision that was unreasonable, irrational or illogical in the circumstances of your case. Can you show the panel that the admission authority ignored relevant information about your case or took irrelevant information into account when deciding whether to offer your child a place?

Not all appeals for infant classes are infant class size appeals. It only applies when the class has reached 30 children. Appeals for smaller infant classes would be treated as an ordinary appeal. Make sure you know what type of appeal you are making so that you can prepare your case properly.

Who is the Admission Authority for the school?

The Admission Authority (AA) is the official body which decides the rules on how children will apply for a place at a school and who is offered a place.

Different types of school have different admission authorities.

Type of school	Admission Authority
Community schools Voluntary controlled schools	The Local Authority is the admission authority
Voluntary aided schools Foundation schools Trust schools City technology colleges	The school Governing Body is the admission authority
Academies Free schools	The Academy Trust/Governing Body is the admission authority

ACE Education Advice

Make sure you know who is the Admission Authority for the school that you are appealing for. Ask the LA Admissions Department if you are not sure.

The appeals timetable

All admission authorities must publish an appeals timetable on their website by 28th February each year. Admission authorities may set their own dates within the constraints of the Admission Appeals Code.

The deadline for lodging an appeal must be at least 20 school days from being informed that your application was unsuccessful.

Type/date of application	Hearing to be held within:
Normal admissions round (primary and secondary)	40 school days of deadline for lodging appeals
Late applications in normal admissions round	40 school days of deadline for lodging appeals if possible or 30 school days of appeal lodged
Sixth form (offers conditional on exam results)	30 school days of confirmation of exam results
Sixth form (unconditional offers)	40 school days of deadline for lodging appeals
In year admissions	30 school days of appeal being lodged

You can expect to receive notification of your appeal and information related to the hearing according to the following timetable.

Notification duty	Time limit (at least)
Deadline for lodging appeals calculated from the date of notification that the application was unsuccessful	20 school days
Written notice of appeal date and arrangements for hearing	10 school days before hearing
Further evidence to be submitted by appellant; deadline to be notified with date of appeal	According to timetable published by Admission Authority
Admission Authority must supply all relevant documents to the clerk	According to timetable published by Admission Authority
Clerk must send papers to all parties, including names of panel members	A reasonable time before hearing – According to timetable published by Admission Authority
Clerk or chair must send decision letter to all parties	As soon as possible and not later than 5 school days without good reason

Lodging your appeal

The letter telling you that your child has been turned down for a school place must tell you of your right of appeal, including details of how you make the appeal and where to get further information.

The letter may include an appeal form. If not, send a letter to the Admission Authority saying you want to appeal. This will start the formal appeals process. All appeals must be made in writing.

To: Clerk to the Appeal Panel
c/o The Local Authority or
c/o The Chair of Governors

Date

Dear Sir

I wish to appeal against the decision not to give my child [name] a place at [name of school]. If you have an official form on which I should write my appeal, please send it to me as soon as possible.

My grounds for appeal are: [Outline as many of your reasons as possible]

Yours faithfully,

[Your name]

Send your letter to the Admission Authority for the school (see page 4)

- The Local Authority Admissions Department (for community and voluntary controlled schools)
- The School (all other types of school)

You must be given at least 20 school days to send in your written appeal. There is no legal time limit but if your form is late there may be a delay to your appeal being heard.

ACE Education Advice

Send the appeal form or a letter as quickly as possible, but:

- if you have missed the deadline, you can generally still appeal
- do not wait too long, you do not need to write out your whole case now, just say you want to appeal and outline as many reasons as you can. You can send further information later on.

Preparing for your appeal case

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You will need to think carefully about the following factors when preparing your case. Make notes for each of the sections that are relevant to your case and your child. Careful planning will help you put together a well thought out case.

Has the law been followed?

Check the admission arrangements

There are rules about admission arrangements. In order to be lawful, the school's admission arrangements must comply with the School Admissions Code and relevant law.

The admission arrangements can change from year to year. They are usually called the oversubscription criteria. They must be published in the LA guide or prospectus to local schools. This must be available on the LA website or ask your LA Admissions Department for a printed copy.

Remember, for most schools, the oversubscription criteria are only used if there are more applications than the number of places available. So, if 100 children apply for a school with 60 places, the oversubscription criteria will be used to decide which 60 children get a place.

Schools which are fully selective on academic grounds may refuse your application if your child has not met the school's selection criteria, even if the school is not full.

Faith schools may give priority to children of the same faith as the school but may also have criteria which allow children of other faiths and denominations or just children in the local community to get places.

Whilst taking account of any selection and faith criteria, schools must give priority to Looked after Children (children in care) and previously looked after children who have been adopted or given a guardianship or residence order.

Other common oversubscription criteria include the measurement of distance from the school, medical/social reasons or having a brother or sister at the school.

ACE Education Advice

Look at the admission arrangements carefully and ask yourself:

- Have the rules been followed properly?
- Has an error been made in applying the oversubscription criteria in your case?

If you think a mistake has been made

In most cases the rules are followed but there can sometimes be errors. Check that your child has been considered as the correct priority e.g. medical need, sibling, catchment, religious criteria. If you think a mistake has been made and your child should have been given a place, contact the Admission Authority immediately.

If the Admission Authority agrees with you, your child may be given a place in the school without an appeal.

If the Admission Authority doesn't agree with you or you don't agree with what is written in the appeal papers when you receive them – present your reasons as part of your appeal case.

Make notes

I do not think the admission rules have been followed because...

I think an error has been made in my case...

Unlawful discrimination

The Admission Authority must not discriminate in the arrangements made for deciding who is offered a place at the school. This includes all aspects of the admission arrangements, such as, information about the school, the application process, any tests or exams and the oversubscription criteria.

The Equality Act 2010

The Admission Authority has obligations under the Equality Act 2010. Refusing to admit a child because of a protected characteristic such as disability or race is unlawful. There are exceptions for single-sex schools and faith schools. (See Further help page 19)

If your child has a disability and you feel the admission authority has discriminated against your child, for example by treating your application differently than for other children, or refusing to accept it, you may be able to claim disability discrimination. (see Further help page 19).

If you think your child has been treated less fairly than others your views should be part of your case.

Make notes

I think my child has been discriminated against because...

About the school

Is it really full?

Schools have a set number of places to fill. This is called the published admission number (PAN). You can ask the Admission Authority for the PAN. You will also find this in the LA prospectus for schools. Unless the school is a fully selective school, all places must be filled before a child can be refused a place.

If your child has been refused a place because the school is full, the school will argue that another child will mean larger classes which stretches teachers, equipment and space. This is called **prejudice**.

Prejudice to the efficient education or efficient use of resources means there will be an adverse effect upon the education and resources provided by the school if they have to admit another child.

Infant class size prejudice means that the legal limit of 30 children per teacher would be broken. The school would have to show that any measures they could take to avoid this, such as employing another teacher, would cost too much or have an adverse effect on the education of other children.

In the information sent to you before the appeal hearing, there will be school details such as the number of staff, number of pupils on roll, size of classrooms, layout of the school etc. If you do not have the details you need to prepare your case ask the Admission Authority for this information.

The school's case should also explain how admitting an extra child will have a negative effect on the quality of the education they can provide.

Think about the physical space and layout of the school. Find out if the school has any plans to create extra space by building an extension or using rooms in a different way. Does this show that the school can take an extra pupil or can meet the legal limit of 30 children per infant class?

You could ask the Admission Authority how many appeals were successful last year. This might mean that the school could cope with extra pupils if they have managed this in the past.

Make notes

I believe that the school could take an extra pupil because...

I disagree with the school's claim that...

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Look closely at all the reasons given by the school for why they say they cannot take an extra pupil. Where is the evidence for the reasons they give? You can ask questions about any of the statements made in the school's case at the appeal hearing.

About your child

Describe your child

Think about your child, imagine you are describing them to a stranger. Think about how each point affects your child in school and at home.

Remember, the panel do not know your child. Do not expect them to guess. You must explain and give examples.

Points about your child that could fit with why this school is needed:

- What is your child good at?
- What does your child like to do?
- Any health problems now or previously?
- Any social problems – shyness, victim of bullying?
- Any family problems?
- Any emotional problems – anxiety, low self esteem?
- Any difficulties with learning, special educational needs or a disability?
- Any problems at school?
- Have any recent changes affected your child?

Make notes

My child is...

Why my child must go to this school

It is very important to think of all the issues that show how only the school you are appealing for can meet your child's needs. It is not enough to say it is a good school as all parents want that for their children.

It is best to split this into two parts:

1. Why this school would be the right one for your child and
2. Why it would be difficult for your child if they did not go to this school.

List all the positive points about the school that you can think of. Use information from visits and documents such as the School Prospectus, the most recent Ofsted report, school policies and the school website.

For example:

- it has a good anti-bullying policy
- it has good sports facilities or music facilities
- my child really liked the school
- most of my child's friends/our community go there
- it is very close to where we live/a very easy journey
- it is a mixed school or a single sex school
- it teaches three modern languages or single sciences, etc.

Explain in detail why each point you make is so important for your child.

Make notes

This school is the right one for my child because...

Explain what may happen if your child cannot go to this school. Show how your child will be affected at home and in school. If there are strong family reasons for needing this school and no other, include them here. Again, do not expect the panel to guess, you must explain.

Remember, problems affect different children in different ways.

Make notes

If my child does not go to this school I am very worried that...

Why other schools are not suitable

It is very important that you look carefully at the school you have been offered and other schools with places available. Visit them with your child. If you think that going to the other schools would cause your child problems you will need to be specific and explain why.

Would the journey be particularly difficult? Does the curriculum not offer the right subjects or specialised facilities? Think of all the problems your child is likely to face. Again, explain the effects on your child.

Make notes

If my child had to go to another school I am worried that...

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Do not just give general negative views of the school. Be aware that schools often get a bad name unfairly and different schools suit different children. We advise parents to find out for themselves and don't just take the word of others.

Writing your appeal case

Proving your points

Look at all the notes you have made and make sure all your points show why your child needs to go to this school and only this school. Remember that for an infant class size appeal you will need to make sure that your appeal shows why the decision was unreasonable, that a mistake was made or that the admission arrangements were not lawful.

Think about how you can prove all your points. You will need to come up with evidence. This is very important and will make your case much stronger. Draw the panel's attention to your evidence and explain why it supports the point you are making.

- Have you any reports that back up your case?
- Will anyone independent, like a doctor send a letter that agrees with you?
- Will anyone like a youth worker or mentor come as your witness or write a reference?
- A bus timetable or a map may be evidence that another school is hard to get to.
- Does the school prospectus, Ofsted report or any school policies help support your case? Quote from these documents.

In infant class size appeals, the panel's role is to review the original decision. If you submit new evidence that does not relate to your circumstances at the time of your original application, the panel may not take it into account.

Writing out your case

If you can, it is best to type your appeal case. Use headings and bullet points to organize your information. This will make it as easy as possible for the appeal panel to read and digest your case. You could ask a friend or family member to read through your case to check it is easy to understand. If you have a lot of documents and evidence to support your case put them as numbered appendices to your main case with references in the text.

See page 13 for sample appeal statements.

Send your case to the Clerk, along with all your evidence, and take copies of everything with you to the appeal hearing.

Appeal statement

Appeal for admission to [give name of school] for [give name and date of birth of your child]

I very much want my child to be a pupil at this school. I believe it is essential for my child's education and welfare.

[Now look at your notes and add all the points fit your case]

- I do not think the admission rules have been followed because ...
- I believe my child has been discriminated against because ...
- The school cannot claim it is full because...
- I disagree with the school's claim that...
- My child is... [describe your child]
- This school would be good for my child because...
- If my child does not go to this school I am worried that...
- If my child had to go to another school, I am worried that...

Appeal statement Infant Class Size Appeal

Appeal for admission to [give name of school] for [give name and date of birth of your child]

I very much want my child to be a pupil at this school. I believe it is essential for my child's education and welfare.

[Now look at your notes and add all the points fit your case]

- I do not think that the admission arrangements are lawful because...
- I believe that a mistake has been made and my child should have been offered a place because...
- I do not believe that admitting an extra pupil will breach the infant class size limit of 30 pupils per teacher because...
- I believe that the admission authority's decision not to offer my child a place was unreasonable in the circumstances of my case because...

The appeal hearing

Support at the hearing

It is very important to attend the hearing in person. You can take someone with you. This person could be a friend, an adviser like a Choice Adviser, a locally elected politician, or someone who works for the LA like a social worker or a mentor. It is important that there is no conflict of interest.

You should inform the Clerk in advance of the meeting if you are taking someone with you or if you will be represented.

If you need support such as a translator or signer contact the Clerk. The Admission Authority must comply with their duties under the Equality Act in relation to a parent's attendance at the hearing.

You can decide whether your child attends the hearing with you as a witness. However, it is up to the panel to decide whether it is appropriate for a witness to remain after they have given their evidence.

Procedure at the hearing

There will be three people on the appeal panel, plus a Clerk to explain procedures, take notes and to ensure that the hearing is conducted properly and fairly.

The appeal panel is a group of at least 3 people. They must receive training. There are strict legal rules about who can or can't be a member of an appeal panel. There will be at least one lay member (a person without experience in the management of education) and at least one member who has experience in education, or is the parent of a child at school.

The usual order of the hearing is as follows:

1. The Clerk will explain the procedure and answer any questions you have before the hearing starts.
2. The Chair will introduce everyone present.

3. The Admission Authority representative will put their case first and explain why your application was refused and why the school can't take a further child without causing prejudice. You will be able to ask questions.

Sometimes the Headteacher or a governor from the school will also attend the hearing in order to answer specific questions about the school.

4. Next you present your case. The Admission Authority representative can then ask you questions. Panel members can ask questions at any time.
5. The admission authority representative sums up and then you sum up. This means bringing together the main points you have already made.

Single and multiple appeals

For **single appeals** your whole appeal will be heard in private.

For **multiple appeals** the first stage (the Admission Authority's case and any questions from you, other parents or the panel) is presented to all parents appealing for the same year group in the school at the same time. This is followed by a private hearing for the second stage where you put forward your case for why your child must go to this school.

ACE Education Advice

You may feel tense and anxious at the hearing. If you read out your case you will not forget to include any of your points. Think about how you will sum up your case before you go to the hearing. Practice reading out your case at home.

Natural justice

Appeal panels must follow the rules of natural justice. This means that the conduct of hearings should be based on fairness with each side given the chance to state their case without unreasonable interruption. Any written material or evidence must be seen by all parties.

The panel's decision

For all appeals, **BUT NOT infant class size appeals**, the panel must follow a two-stage process when reaching a decision.

Stage 1 – looking at the decision to refuse admission, where the panel considers:

- were the school's published admissions arrangements lawful and were they correctly applied in your child's case? If they were unlawful or wrongly applied, would your child have been admitted if they had been lawful and correct?
- would the school be 'prejudiced' if additional children were admitted? (see page 9)

If there has been a mistake and your child should have got a place, or if the school can take additional children, the panel can uphold the appeal at stage 1.

If not, they must go on to stage 2.

Stage 2 – balancing the arguments, where the panel uses its discretion to balance the arguments and consider whether your reasons for why your child should go to the school outweigh the prejudice that would be caused to the school if they had to take an extra child.

In multiple appeals there may be a number of children whose cases individually outweigh the prejudice to the school, but the school would not be able to cope with admitting that number. In that case the panel will need to compare the cases and uphold those with the strongest case for admission.

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This means you will probably win your case if the panel decide:

- that the admission arrangements are unlawful, or
- that a mistake has been made and your child should have been offered a place, or
- that the school can cope with an extra pupil, or
- that the problems your child will face if they do not go to the school will be greater than the problems faced by the school if they have to admit an extra pupil.

Infant class size appeals

For Infant class size appeals the panel is more limited and when reaching a decision can only consider:

- if the admission arrangements comply with the requirements of the School Admissions Code and the SSFA 1998
- if the place was refused in error
- if admitting an extra child would breach the infant class size limit
- if the decision by the Admission Authority to refuse admission was unreasonable in the circumstances of the case.

The appeal panel are limited generally to only considering information that was available to the Admission Authority at the time it made its decision, unless you are submitting new information to show that the admission arrangements do not comply with the School Admissions Code or that a mistake was made with your case, or that the admission authority acted unreasonably.

Unreasonable

It is not the usual meaning of unreasonable – it also has a legal meaning. An unreasonable decision is one that is illogical, irrational or perverse when you look at the facts of the case.

For the appeal panel to find that the decision to refuse admission was unreasonable they will need to be satisfied that the decision was perverse in the light of the admission arrangements. The threshold for this is very high.

ACE Education Advice

It is very difficult to win an infant class size appeal.

You will only be successful if the panel decides that your child was turned down wrongly because the admission arrangements were unlawful or a mistake was made and your child would have been given a place if a mistake had not been made or it was unreasonable in the legal sense to refuse your child a place.

Informing you of the decision

You will be told the panel's decision by letter. The letter should be sent as soon as possible and ideally within 5 working days, although this may not be possible when there are lots of appeals for the same school. The letter must give clear and detailed reasons for the panel's decision. You must be given information about how to complain if you think the hearing was not properly conducted.

If you win your appeal your child must be offered a place. The panel is not allowed to attach conditions to the place.

If your appeal is unsuccessful

Can I appeal again?

You cannot normally appeal again because Admission Authorities will not accept further applications in the same school year. However, if there is a significant change in your circumstances you may be able to apply again. You would then have a further right of appeal if you are turned down.

Complaining about the appeals process

The Local Government Ombudsman (maintained schools only)

If you are unhappy about the way your appeal was carried out you and you think there has been maladministration you can complain to the Local Government Ombudsman. Maladministration covers issues such as a failure to follow correct procedures or a failure to act independently and fairly. It does not cover complaints where you feel that the decision is wrong.

The LGO cannot overrule the panel's decision but can recommend a new appeal. This may not change the situation for your child.

The LGO cannot consider complaints about Academies and Free Schools.

Complaints about Academies

Complaints about appeals for Academies and Free Schools must be made to the Secretary of State. These complaints are dealt with by **The Education Funding Agency**. They can consider whether the appeal panel was properly set up and acted in accordance with the School Admissions Code. They cannot overturn decisions but can require that a new appeal is held if they find maladministration that caused injustice.

Judicial review

If you or anyone involved in the appeal feel that the decision may have been unlawful they could apply for a judicial review. Judicial review means the Court would look at the lawfulness of the panel's decision. It could overturn the decision or order a new appeal hearing.

ACE Education Advice

Only about a third of parents win their appeal (less for infant class size appeals) so try not to be too negative about other schools when you talk to your child.

Further help

From ACE Education

See the ACE website: www.ace-ed.org.uk

From the Department for Education

General information on admissions: www.gov.uk and search for school admissions.

Schools Admission Appeals Code

Schools Admissions Code

Free to download from www.gov.uk and search by title.

From the Equality and Human Rights Commission

Equality and Human Rights Commission Helpline: 0845 604 6610

What equality law means for you as an education provider: schools:

www.equalityhumanrights.com

The Local Government Ombudsman

www.lgo.org.uk

Education Funding Agency

Academy independent admission appeal panel complaints:

www.gov.uk/government/publications/academy-independent-admission-appeal-panel-complaints



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