

# Pre-Opening Resource

*Admissions*

January 2020

**New  
Schools  
Network**

## Introduction

All schools, including academies and free schools, must have arrangements for admissions that clearly set out how children will be admitted, and what criteria will be applied if the number of applications exceed the number of places at the school.

On the other side, if the number of your applications received or accepted offers fall below the minimum viable expectations by your application deadline or by national offer day, the [DfE Proposer guidance](#) requires from you to escalate this to your lead contact.

This document offers an overview of the different documents and statutory guidance from the DfE and the Education, Skills and Funding Agency (ESFA) that you must adhere to, when developing the admission arrangements for your academy or free school. These are the same as for an LA maintained school – the only difference is that while the admissions authority in a maintained school is the local authority, in an academy or free school, the admissions authority is the academy trust itself. All schools must publish their timetables for organising and hearing admission appeals on their websites by 28<sup>th</sup> February each year.

It is therefore imperative that you know and comply with the school admissions code and the school admission appeals code.

The DfE has produced additional guidance as a help to new mainstream free schools when establishing their admissions arrangements. These guidance documents can be found here: [free school admissions guidance](#). See details below.

## School admissions code

The [school admissions code](#) published by the DfE is the statutory guidance outlining schools' duties in relation to school admissions.

The guidance was updated in December 2014 and applies to maintained schools as well as academies and free schools. The code applies to admissions arrangements made in 2015 for admission in school year 2016/17 and future years. This guidance should be read in conjunction with the DfE's [school admission appeals code](#), as outlined below.

The guidance states that: "All schools must have admission arrangements that clearly set out how children will be admitted, including the criteria that will be applied if there are more applications than places at the school. Admission arrangements are determined by admission authorities."

In an academy or free school, the admission authority is the academy trust and it is therefore the duty of the academy trust (usually the governing body) to ensure that the school complies with the codes, as outlined in its funding agreement.

This guidance is for:

- headteachers and school leaders
- school staff
- governing bodies
- schools adjudicators
- admission appeal panels

The guidance consists of the following sections:

- Introduction to, purpose of and principles behind the admissions code
- Section one, entitled 'Determining admissions appeals' covers areas to do with: PAN, oversubscription criteria, consultation, determination, composite prospectus
- Section two, entitled 'Applications and offers' covers areas to do with: applying for places, allocating places, withdrawing an offer or a place, waiting lists, class size, age groups, children from overseas, co-ordination, offering a place, right to appeal, school closure
- Section three, entitled 'Ensuring fairness and resolving issues' covers areas to do with the schools adjudicator, variations, children with challenging behaviour, Secretary of State's power of direction
- Appendixes include: — relevant legislation (Equality Act 2010, Human Rights Act 1998, School Standards and Framework Act 1998) — sample admissions arrangements (the admissions timeline with an example timetable)

## School admissions appeals code

In accordance with the requirement set out in section two of the [school admission appeals code](#), all schools must publish their timetables for organising and hearing admission appeals on their websites by 28<sup>th</sup> February each year.

The DfE's [school admissions appeals code](#) contains statutory guidance on how schools should organise and run their pupil admissions appeals. This guidance applies to maintained schools as well

as academies and free schools. It should be read in conjunction with the DfE's school admissions code, as outlined above.

As with the school admissions code above, the admissions authority in an academy or free school is the academy trust itself, and it is therefore the duty of the academy trust (usually the governing body) to ensure that the school complies with both codes, as outlined in its funding agreement.

As expressed in section 1.2 of the appeals code, impartiality is a requirement: "IAPs must be transparent, accessible, independent and impartial, and operate according to principles of natural justice." A lack of impartiality by the panel is highlighted by the ESFA as one of the key findings from their 2014 review of appeals.

One way to ensure impartiality is to appoint an independent authority to check and assess the appeals. Many free schools use their local authority to carry out the assessment of the appeals. Appointing an external independent body can be particularly useful for free schools, as they tend to receive more appeals or complaints than other schools.

This guidance is for:

- headteachers and school leaders
- school staff
- governing bodies
- schools adjudicators
- admission appeal panels

The guidance consists of the following sections:

- The statutory basis for the school admission appeals code
- Introduction
- Section one, entitled 'Constitution of appeal panels' covers areas to do with membership, training, roles and responsibilities, indemnity and costs
- Section two, entitled 'Appeal hearings' covers areas to do with timetable, notifying appellants, production of evidence, attendance and representation, the appeal hearing, the order of the hearing, multiple hearings, reaching a decision

- Section three, entitled 'Reaching decisions on appeals' covers areas to do with the difference between the two stages in the two stage process, examining the decision to refuse admission, balancing the arguments, considering prejudice, appeals for sixth forms, children with disabilities, children with statements of special educational needs, waiting lists
- Section four, entitled 'Infant class size appeals' covers areas to do with the two different stages in terms of examining the decision to refuse admission and comparing cases, deferred entry to primary schools
- Section five, entitled 'Further appeals and complaints about appeals' covers these two areas
- Section six, entitled 'Appeals by governing bodies against local authority decisions to admit twice-excluded children' covers areas to do with notice of appeal, appeal panels, the appeals procedure
- Relevant legislation
- Further information about the role of the local government ombudsman

## Guidance: Free school admissions

Whilst the statutory guidance above: the school admission code and the admission appeals code, apply to all schools and therefore also free schools, the DfE has produced a [number of guidance documents](#) to cater specifically for new free schools.

These pieces of guidance can be helpful when setting up arrangements for admissions as a new free school, particularly if you have no previous experience of setting up admissions arrangements.

The documents comprise:

- [Mainstream free school admissions guidance](#)
- [Special free school admissions guidance](#)
- [Templates](#) for use in writing the admissions arrangements for mainstream and 16-19 free schools
- [Template](#): special free school admissions statement of provision
- [Template](#): alternative provision (AP) free school referral policy

The general [guide](#) is to help free schools draft their first set of admission arrangements and should be read in conjunction with the template and models on the site, as well as the school admissions and school admissions appeals code.

The guide applies to free schools with **mainstream** admissions. It does not apply to 16-19, AP and special free schools (unless the special free school also admits those without an EHCP which names the school). These schools should refer to the separate guidance documents and templates linked above.

The guide is written as an introductory overview and goes through key points for the following:

- Adopting clear and fair admissions
- Adopting oversubscription criteria
- Drafting admissions arrangements
- Admission oversubscription criteria
- Determining admission arrangements

The related word document: Free school admissions models provides a number of examples of admissions arrangements from different schools, including:

- a primary school
- a secondary school
- a secondary school using a catchment area
- multi-phase admission arrangements
- faith free school admission arrangements

It also gives advice on oversubscription criteria for post-16, and how to apply for pupil premium priority.

Finally, the same guide includes a document entitled Free school admissions: common issues. This document offers more detailed guidance for free schools on admissions, and it goes through common questions that new free schools may have, when developing their admissions arrangements. This document includes advice on:

- Understanding admissions
- Administering admissions
- Oversubscription criteria
- Application forms
- Selection

- Post-16 admissions in secondary schools
- Admissions outside the normal admissions round
- The infant class size limit
- Appeals
- Objections to admission arrangements
- Working with the local authority
- Changing the school's admission arrangements and consultation

## Academies admissions appeals review

This short review published by the Education and Skills Funding Agency (ESFA) outlines the key findings from complaints made about academy Independent Appeal Panels (IAPs) in 2015. On this basis, the review suggests how academies can ensure that future appeals comply with the school admissions appeals code.

The review explains that the most common reasons of complaint were cases in which the IAP was found not to have adequately considered:

- the lawfulness of the academy's admissions arrangements
- whether the arrangements had been applied properly
- the child's individual circumstances

Based on these findings, the ESFA brings forward a number of recommendations for the clerk of governors that can help ensure that appellants receive a fair hearing.

## Setting up an academies complaints procedure

The ESFA has also updated their guidance to support academies and free schools in drawing up and administering compliant complaints procedures. Academies and free schools are required to develop these procedures under the Education Regulations 2014. However, this is not aimed specifically at admissions complaints. This short html guide contains an introduction, an overview of the requirements for complaints procedures, good practice suggestions and the role of the ESFA.

## Further information

- The DfE's statutory guidance on school admissions: the [School admissions code](#)
- The DfE's statutory guidance on how schools should organise and run their pupil admissions appeals: [the School admissions appeals code](#)

- The DfE's [guidance specifically to new free schools](#) drafting their first admissions arrangements, including guides, template and examples
- The Education Funding Agency's [Academies admissions appeals review](#) complaints and suggestions for future appeals
- The Education Funding Agency's guidance for academies to create a [complaints procedure](#) in compliance with the Education Regulations of 2014



## Support for schools in pre-opening

NSN has supported free school groups in pre-opening since 2014. NSN's unrivalled knowledge and experience has been informed by our work with over 70% of open and approved free school groups throughout the application and pre-opening phases.

[The NSN Delivery Programme](#) has been meticulously designed to address the challenges of the rigorous pre-opening process. Whilst proposer groups may have a wealth of skills and expertise, the NSN Delivery Programme will fill gaps in capacity and/or capability, providing a range of support options to prepare schools for a successful opening.

Our exclusive packages of advice, support and project management have been developed to comply with Department for Education (DfE), and Free Schools Capital (FSC) guidance and focuses on the areas that our experience shows will provide free schools with the most value in pre-opening.

### NSN Delivery Programme

#### Foundation Advisory Service

All approved projects have access to our core advisory service, which is free of charge. This foundational offer includes:

- An invitation to our annual launch event, delivered in partnership with the DfE
- A telephone and email service
- Key pre-opening resources
- Invitations to our Spotlight events at open free schools
- An invitation to our events focusing on the final stages of pre-opening

#### Site Advisory Service

Relevant to both sequential and concurrent groups, the NSN Site Advisory Service helps groups to navigate the complex process of securing a site and suitable free school building. Developed to complement the support provided by LocatED and FSC, the service includes:

- A named NSN Project Manager
- Access to NSN Site Associates
- Comprehensive and exclusive guidance resources about free school capital projects
- In-depth support meetings with NSN Project Managers and Site Associates
- Detailed feedback from support meetings

### Essentials Advisory Service

Developed to support the project management and delivery of the non-site related challenges you will tackle in pre-opening, the NSN Essentials Advisory Service focuses on areas such as pupil recruitment and admissions, the section 10 consultation, finance, governance, education planning and staffing. The NSN Essentials Advisory Service provides:

- A named NSN Project Manager
- Access to a range of NSN Associates
- Bespoke and exclusive networking opportunities with existing free schools
- In-depth meetings with NSN Project Managers and Associates
- Detailed feedback from support meetings
- Comprehensive and exclusive suite of guidance resources about all aspects of pre-opening
- Spokesperson training for principal designates

### Project Management Partnership Service

Based on our vast experience, and developed with the DfE's Pre-Opening Guidance in mind, the NSN Project Management Partnership is for groups planning to outsource some or all of the project management of their free school in pre-opening.

Split into two phases, the NSN Project Management Partnership takes into account the volume, complexity and timing of tasks in different phases of pre-opening. With additional bolt-on services available to buy, the NSN Project Management Partnership is the most bespoke service offered as part of the NSN Delivery Programme.