

Covid 19 – changes to arrangements for admission appeals and exclusion reviews

The Department for Education (DfE) has recently published further regulations to amend the operation of admission appeals and exclusion reviews given the ongoing concerns around the Covid-19 pandemic.

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Please note: the information contained in this legal update is correct as of the original date of publication

The Department for Education (DfE) has recently published further regulations to amend the operation of admission appeals and exclusion reviews given the ongoing concerns around the Covid-19 pandemic. In both cases, the regulations extend the period in which appeal and review hearings do not have to be held in person, but rather virtual hearings can be held instead. For admission appeals, there is a further option of appeals being determined on the papers by an admission appeal panel.

For admission appeals, the regulations allow virtual appeals or paper appeals to take place until 1 October 2022. The DfE has not yet updated the guidance to accompany the regulations but, as only the timescale has changed, it is safe to assume that the approach set out in the guidance issued in February 2021 will continue to apply.

The [guidance](#) works on the basis that face-to-face appeal hearings may not be appropriate at this time, given the current Government focus to limit the spread of the virus. In place of physical hearings, admission appeal hearings may be held by either video or phone and, where that is not possible or will not allow participants to engage fully in the process, an appeal may be determined on written submissions. It remains a decision for the appeal panel to make on the format of appeals, with support from the clerk and taking into account the needs of the appellant(s). The key questions that the panel must ask when making this decision for each appeal are set out in the guidance.

It is worth remembering that the School Admissions Appeals Code 2012 remains in force and all involved in admission appeals must act in accordance with the Code in relation to decisions taken around admission appeals. The amending guidance makes changes to the Code's requirements in some specific ways:

- The admission authority will still need to set a timetable for appeals, but any appeals lodged by parents following national offer day will need to be heard as soon as reasonably practicable rather than within a specified number of school days. The amending guidance provides greater discretion in relation to holding appeals, given the additional requirements placed on those authorities in organising hearings by video or phone or establishing a procedure to deal with appeals in writing, which will extend over a longer timeframe.
- Any actions to be taken in the run-up to an appeal hearing (sharing information, submitting evidence) or issuing decisions after an appeal hearing must be undertaken within set deadlines expressed in working days, not school days.
- Whilst a panel must always start an appeal hearing with three members, as per the Appeals Code, where a panel member is unable to continue to hear the appeal for a reason related to Covid-19, the panel may continue with two panel members.

Our [webinar](#) recorded in April 2020 continues to provide useful guidance on the lawful operation of admission appeals in 2021, especially around the practical concerns of operating appeals by video or phone.

For exclusions, the regulations and guidance have been updated and continue to allow virtual hearings of governor exclusion reviews or, for permanent exclusions, independent exclusion reviews until 24 March 2022. All other aspects of the exclusion procedure will revert to the framework set out in section 51A of the Education Act 2002 and the School Discipline Regulations 2012. This includes reverting to the

usual 15 school days for parents to request an independent review of a permanent exclusion instead of the 25 school days permitted under previous amendments to the exclusions framework due to the regulations made as a result of the pandemic.

If you require any assistance with managing admission appeals or exclusions and reviews, please get in [touch](#). We offer a range of support services including [virtual clerking services](#), [step-by-step guidance notes](#) and [bespoke training sessions](#) in both areas.

Contact



Mark Hickson

Head of Business Development

onlineteaminbox@brownejacobson.com

+44 (0)370 270 6000

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