



Department  
for Education

# **Changes to the School Admission Appeals Code**

**Government consultation response**

**June 2022**

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## Introduction

The School Admission Appeals Code 2012 (the Appeals Code<sup>1</sup>) ensures that admission appeals in England are conducted in a fair and transparent way and are decided by an independent admission appeal panel. The Appeals Code applies to admission appeals for all maintained schools and academies (including free schools, University Technical Colleges and Studio Schools) in England. It does not apply to any maintained or academy special school, alternative provision or stand-alone 16-19 provision.

The government has proposed some changes to the Appeals Code to enable some of the flexibilities that were introduced through temporary regulations in response to the COVID-19 pandemic to continue (with suitable adaptations) permanently. We consulted on:

- Allowing appeal hearings to be held remotely or in person; and
- Allowing a panel of two to decide appeals in circumstances where the third member has to withdraw.

We proposed that these changes would apply to both sets of admission appeal hearings dealt with under the Appeals Code (appeals against an admission authority's refusal to admit a child and appeals by governing bodies against a local authority's decision to admit to their school a child who has been permanently excluded from two or more schools).

We also consulted on a number of minor technical drafting changes to certain provisions of the current Appeals Code, including to update references to legislation and the new School Admissions Code 2021.

We considered the responses and have made some changes.

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<sup>1</sup> [School Admission Appeals Code](#)

## Consultation Summary

We consulted on the proposed changes from 7 February to 3 April 2022. We invited a variety of stakeholders to respond to the consultation including all English local authorities and relevant national representative organisations. We encouraged responses from schools and multi-academy trusts, appeal panels, parents, as well as other interested parties. We received 488 written responses and a list of organisations which responded can be found at Annex A.

## Summary of Responses

Of the 488 responses received, 94 were from local authorities, 135 from respondents linked to schools and academy trusts, 72 responses were from individuals and 169 from admission appeal panel members. A further 18 responses were from other organisations such as appeals service providers and national representative organisations.

All responses that answered at least one question or provided comments on the proposals were considered. This summary is not an exhaustive record of all the points made, and the absence of a particular issue does not indicate that it has been ignored or is less important.

Some respondents provided comments that cannot be easily categorised within our multiple-choice numerical analysis. These have been recorded as 'not answered', but the information was taken into consideration. A numerical summary of responses can be found at Annex B.

## Main findings from the consultation

There was broad support for our proposals, in particular for the proposal to retain an option for holding remote appeals.

The majority of respondents supported the proposals to allow a panel of two to conclude an appeal where the third member has to withdraw. A minority of respondents, however, raised important issues around fairness and the perception of fairness.

Respondents were supportive of the proposal to include an option for remote appeals, particularly appeals conducted by video conference. There was qualified support for telephone appeals. The majority of respondents supported an option for hybrid appeals but raised a number of issues around administration and logistics.

# Analysis of Consultation Responses

In this document we have grouped the analysis of consultation and government responses in the same way the sections appeared in the consultation document. For clarity, the consultation question numbers are in brackets next to the relevant heading.

Please note, where consultees have provided a response that gives wider feedback rather than addressing the specific question, their responses have been considered but logged in the numerical data analysis as 'not answered'.

## Section 1: Constitution of appeal panels- membership (1.1 – 1.4)

**1.1 Do you agree that admission authorities should have flexibility to allow a panel of two to continue hearing and making decisions on appeals in the event the third member has to withdraw either before or part way through an appeal or group of appeals?**

**1.2 Do you believe that allowing a panel of two to continue hearing and making decisions on appeals is beneficial and means that appeal hearings can continue without unreasonable delay?**

82% of respondents agreed that admission authorities should have the flexibility to allow a panel of two to continue hearing and making decisions on appeals in the event the third member has to withdraw either before or part way during an appeal or group of appeals. 17% of respondents either disagreed or were unsure.

84% of respondents agreed that allowing a panel of two to continue hearing and making decisions on appeals is beneficial and means that appeal hearings can continue without unreasonable delay. 14% of respondents disagreed or were unsure.

Those who disagreed were concerned that a panel of two could be unfair or perceived as unfair by parents; or could be open to abuse and increase the risk of maladministration complaints. Some respondents argued that in cases where the remaining panel members disagreed and the chair had the casting vote, the appeal would effectively be decided by one person. Others felt that a panel of three is needed to ensure a majority decision and meaningful debate. Some respondents felt that a mix of both lay and education members on an appeal panel was necessary to ensure a balanced discussion and breadth of experience.

Many respondents, including some respondents who agreed with the proposal, asked for a definition of 'unreasonable delay' and for further clarification on the timing of a panel member's withdrawal.

**1.3 In circumstances where a panel member has to withdraw do you believe that the appeal(s) will continue to be heard in a fair and transparent way by the two remaining panel members, even if this means both members are either lay people or people with an education background?**

79% of respondents agreed an appeal hearing can continue to be heard in a fair and transparent way by the two remaining panel members, regardless of their background. 19% disagreed or were unsure.

Those who agreed and provided comments generally reasoned that panel members are independent, trained and experienced in hearing appeals in a fair and transparent way. Some respondents also commented on the clerk's role in upholding procedural correctness and ensuring hearings are conducted in a fair and transparent way.

Respondents who disagreed said that fairness may be undermined or be perceived to be undermined where the remaining two panel members are from the same background; that this may lead to a loss of balanced views in the panel; and concerns were raised about circumstances where the chair withdraws and the remaining two members are inexperienced.

**1.4 Do you believe that this flexibility should only be permitted where either postponing or rearranging the appeal(s) would cause unreasonable delay to the determination of the appeal?**

69% of respondents agree this flexibility should only be permitted where postponing or rearranging the appeal(s) would cause unreasonable delay. 29% either disagreed or were unsure.

Many respondents who agreed commented on the effect delays have on the parents and children concerned. A number of respondents said that the withdrawal of a panel member rarely occurs, with many respondents commenting that they have never had to use the similar flexibility offered under the temporary regulations.

Respondents who disagreed commonly argued that the flexibility should be permitted without restriction when the situation arises, and that limiting the circumstances in which the flexibility can be used would cause complications. Many respondents again asked for definition of 'unreasonable delay' and for clarity on timescales.

***Please provide any further comments on these changes***

Suggestions were made to proceed with two panel members only where the appellant and presenting officer agree. Comments were made about the need to make reasonable efforts to find a replacement before proceeding with two panel members.

## Government response

Whilst the proposal received a high level of overall support we have carefully considered the points made in opposition, in particular that the proposal could have an impact on fairness or the appearance of fairness. We have decided not to go ahead with the proposal.

The overriding purpose of the Appeals Code is to ensure appeals are heard fairly. It is crucial that parents feel confident in the appeals process. Concerns were raised about the fairness or perceived fairness of a panel of two deciding an appeal and, in cases where the remaining panel members disagreed, the chair having a deciding vote and the appeal effectively being decided by one person. Respondents also pointed to the importance, reflected in the Appeals Code, of panel members having a mix of educational and lay backgrounds in order to ensure a balanced consideration of the case for and against admitting an additional child. Concerns were also raised about the risk of or appearance of maladministration and the need to tightly define the circumstances in which it was permissible to continue with two panel members.

We carefully balanced these points against the arguments for proceeding with the proposal. Admission authorities told us this would be a useful flexibility to have and that in some cases it would avoid delaying the outcome of appeals which can have a detrimental impact on schools, parents and children, but it was a flexibility that they would expect to use rarely, if at all. We do not have any evidence that this situation occurs regularly or that the temporary provision needed to be utilised often, even during a pandemic.

We considered whether we could amend the proposal to address some of these concerns, for example by tightly defining “unreasonable delay” or by allowing the appeal to go ahead only if the admission authority or clerk considered that to do so would not disadvantage the appellant (for example, by taking into account the background of the two remaining members). However, none of the changes we considered would fully address the issues around fairness and perceived fairness. We also considered such additional protections would add complexity, potentially cause more delay and could therefore adversely impact parents making an appeal.

Given that this is a flexibility that we expect, and hope, would be used only very rarely and where the benefits are relatively limited, on balance we decided not to proceed with the proposal in order not to compromise fairness, or perceived fairness, and to avoid overcomplicating the system further for parents.

## Section 2: Attendance and representation (2.1 – 2.6)

### ***2.1 Do you agree the Appeals Code should include an option for holding appeals remotely?***

**2.3 Do you agree that admission authorities should make the decision on whether to offer appeal hearings in person, remotely or a choice to attendees of either? What factors should be taken into account in reaching this decision?**

93% of respondents agreed with the option to allow hearings to be held remotely with only 6% of respondents not in agreement or unsure. Those who did not support allowing remote appeals as an option were concerned that remote appeals were less fair; that access to remote technology and technological issues make remote appeals difficult to operate in practice and that remote appeals remove the ability to perceive body language.

77% of respondents agreed that the admission authority should decide on whether to offer appeal hearings in person, remotely or a choice of both. 22% of respondents either disagreed or were unsure whether admission authorities should decide the format. Respondents who disagreed advocated for the appellants or appeal panel to decide, with a small minority suggesting the clerk should decide.

Respondents were asked what factors should be taken into account when deciding the format in which to offer appeals. Popular factors included the views and circumstances of appellants, panel members and school representatives; their availability and convenience; the accessibility of the venue; associated costs; time and travel requirements; access to technology; fairness; local geography; and the number of appeals scheduled to take place. Some respondents suggested the admission authority consider the preferences of all parties, in particular parents, prior to deciding and timetabling appeals.

**2.2 Do you believe the following formats allow for a fair and transparent appeal hearing?** (The options presented were: face to face, remote telephone conference, remote video conference, and written submission.)

98% of respondents believed face to face appeals allow for a fair and transparent appeal while 91% believed appeals held by video conference can be fair and transparent. Those who did not believe that appeals held remotely by video allow for a fair hearing generally did not support remote appeals at all and would prefer that appeals are always held face to face.

60% of respondents believed remote appeals held by telephone can be fair and transparent. Respondents who did not think telephone appeals were fair and transparent were concerned that they do not allow for visual representation. Concerns were also raised that telephone appeals were less secure, with confidentiality and privacy hard to guarantee. Respondents also felt that telephone appeals could make it harder for appellants who require the use of a sign-language expert or interpreter.



52% of respondents believed that appeals held by written submission can be fair and transparent. Respondents who believed written submission does not allow for a fair hearing suggested the format may disadvantage appellants with English as an additional language or those who have poor writing ability. Many respondents also reasoned that written submission does not allow for further questions to be asked by the panel, which limits the panels consideration of the parties' cases.

**2.4 Do you agree that appeals should only be considered on the basis of written evidence submitted where either:**

- a) The presenting officer does not attend and the appeal panel is satisfied that it can resolve the case by using evidence submitted by the admission authority if the appellant will not be disadvantaged in doing so; or**

74% of respondents agreed appeals should only be considered using written submission where the presenting officer does not attend and the appeal panel is satisfied the case can be resolved using the admission authority's written submission if the appellant will not be disadvantaged in doing so. 24% of respondents either disagreed or were unsure.

Respondents who disagreed felt the presenting officer should always attend in order to allow the panel to ask further questions.

- b) The appellant fails or is unable to attend and it is impractical to offer an alternative date?**

80% of respondents agreed appeals should only be considered using written submission where the appellant fails or is unable to attend and it is impractical to offer an alternative date. 17% of respondents either disagreed or were unsure.

Respondents who disagreed commented that there may be a perception of unfairness where one party is able to present their case, but the other is considered through written submission. These respondents highlighted the importance of the panel being able to ask supplementary questions to aid their decision making.

## **Government response**

We are proceeding with changes to the Appeals Code to allow the option to hold appeals by video conference. Appeal hearings are not public meetings, and there is no need for them to take place in a public forum as a consequence. We recognise some of the concerns raised in relation to appeals held by telephone. To limit the circumstances in which telephone appeals can be held, we have made changes to the Appeals Code to allow appeals to be held entirely by telephone only where video conference cannot be used for reasons relating to connectivity or accessibility and where the appellant and presenting officer agree. We will provide further information in non-statutory guidance.

The questions in section 2.4 set out the current position on written appeals in the 2012 Appeals Code. We are not making any changes to the limited circumstances in which written appeals can be held as currently set out in 2012 Appeals Code as a result of the consultation.

**2.5 Do you believe that hybrid appeal hearings should be an option? By ‘hybrid’ we mean where one or more participants join remotely (by video and/or telephone) and one or more attend in person.**

**2.6 Do you believe that a hybrid appeal hearing can be conducted in a fair and transparent way which enables the appellant and presenting officer an opportunity to present their case?**

62% of respondents believed hybrid appeal hearings should be an option while 70% believed hybrid appeal hearings can be conducted in a fair and transparent way enabling both parties an opportunity to present their case. 36% of respondents did not believe hybrid hearings should be an option, and 29% disputed whether hybrid hearings can be conducted in a fair and transparent way.

Respondents who did not support hybrid appeals as an option raised concerns about consistency, preferring all parties attend an appeal hearing via the same format. Some respondents felt allowing hybrid appeal hearings complicates the appeals process, while others believed the format would increase the administrative burden on clerks who need to effectively manage the hearing and ensure fairness. Other respondents raised concerns about one party having access to the panel alone, in circumstances where that party attends in person and the other remotely. Some respondents thought this may mean an increase in complaints of maladministration, especially if parents are the party who attend remotely. Many respondents asked for examples of hybrid appeal hearings, and suggested hybrid hearings must include the option to join via video conference, rather than by telephone, to ensure fairness is observed by all parties.

The majority of respondents who supported hybrid appeal hearings as an option provided positive feedback focusing on the increased flexibility which hybrid hearings allow, and the benefit to parents and presenting officers whose time may be better utilised.

## **Government response**

We are retaining the option of hybrid appeals given the majority of respondents supported this option and felt that they could be conducted in a fair and transparent way, citing the role of the clerk in ensuring the hearing is fair. We have clarified what we mean by a hybrid appeal hearing in a new footnote to paragraph 2.11 of the new Appeals Code. It will be for admission authorities to decide whether or not to utilise this flexibility. Accompanying non-statutory guidance will set out some suggested models of hybrid appeal hearings and some of the practical issues that admission authorities will wish to consider if they decide to run hybrid appeal hearings.

## Section 3: Minor technical drafting changes (3.1)

**3.1** *The purpose of the minor technical drafting changes, as set out in Annex A of the consultation document, is mainly to update references to legislation, Codes and departmental names.*

Most respondents provided no comments on the proposed minor technical drafting changes. Respondents who did comment, either stated they had no comments or agreed with the changes.

A small number of respondents sought changes outside the scope of this consultation such as to retain the flexibility under the temporary regulations of calendar days instead of school days, or to make changes to infant class size appeals.

During the consultation the Office of the Schools Adjudicator identified an error in paragraph 6.1 of the Code. Section 95A of the 1998 School Standards and Framework Act states that where a local authority decides to admit a looked after child who has been excluded twice to a community or voluntary controlled school the governing body can refer the matter to the adjudicator.

### Government response

We have added a footnote to paragraph 6.1 of the Code for clarity and to reflect the correct position in law.

## Section 4: Impact assessments (4.1 – 4.9)

### Public Sector Equality Duty

**4.1** *Do you have any comments about the potential impact of our proposals on individuals on the basis of their protected characteristics?*

137 respondents commented on the potential impact of the proposed changes on individuals on the basis of their protected characteristics. Most comments related to the proposal to allow remote hearings. No comments were received regarding the proposed changes to panel composition.

43% of respondents who provided feedback on this question believed there would be a positive impact on some people with protected characteristics, with many citing a positive impact on appellants who may have a disability, are pregnant, or who are older. These respondents often commented that remote appeals made it easier for appellants with these protected characteristics to attend.

12% of respondents to this question thought there could be a potential negative impact on people with protected characteristics, and a further 10% thought the impact could be mixed depending on the protected characteristic. Respondents believed remote appeals may disadvantage appellants with sensory disabilities, and appellants who have English

as an additional language. Some respondents, however, referred to positive examples where interpreters and sign language experts have successfully supported appellants in remote hearings.

## Government response

The Public Sector Equality Duty requires public authorities to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. It places a legal obligation on decision makers when considering how policy impacts on individuals who are protected under the Equality Act 2010.

Public authorities include the Department for Education, admission authorities, local authorities, governing bodies and academy trusts. In coming to decisions post consultation about implementing changes to the School Admission Appeals Code, due regard has been given to this duty.

Appeal panels must comply with their duties under the Equality Act 2010 when conducting appeals, whether they are face to face, remote or hybrid. This includes considering any reasonable adjustments that an appellant may need in order to attend.

Where an admission authority opts to hold appeals remotely rather than face-to-face, they will need to take reasonable steps to ensure that all participants can engage effectively in the hearing at all times and take into account any accessibility issues in deciding how to hold appeals. This could include considering whether the appellant has access to the appropriate software/functionality to participate fully, providing any necessary support and making reasonable adjustments. We will cover these points in the non-statutory guidance.

## New Burdens Assessment

**4.2 Do you believe the proposed Appeals Code will result in any new operational burdens for local authorities?**

**4.3 Do you believe the proposed Code will result in any new costs for local authorities?**

75% of respondents who answered on behalf of a local authority believed the proposed changes to the Appeals Code will not result in new operational burdens for local authorities. 66% believed the changes will not result in new costs for local authorities.

Where respondents anticipated new operational burdens these mostly related to administrative burdens in planning and setting up meetings, particularly organising the logistics of hybrid appeals. Some respondents raised concerns over the burden of ensuring technology was fit for purpose for all participants, while others commented that retaining and recruiting panel members could become a burden where panel members prefer in person appeals.

Respondents who anticipated new costs explained these costs may arise from required investment in technology and supporting online meetings. Some respondents commented that new costs would only arise for those local authorities who didn't opt for virtual appeals when the temporary regulations were in place and that local authorities who chose to use virtual hearings have already made that initial cost investment.

Respondents who believed there would be new costs also believed that those costs would be offset by savings elsewhere, for example on venue hire, travel and expenses. Respondents also recognised that there would be significant time savings by holding appeals remotely.

**4.4 Do you believe the proposed Code will result in any reduced operational burdens for local authorities?**

**4.5 Do you believe the proposed Code will result in any savings for local authorities?**

46% of respondents who answered on behalf of local authorities believed the proposed changes will result in reduced operational burdens, while 60% believed the changes will result in savings for the local authority.

Most respondents felt remote appeals reduced operational burdens and are a more efficient way of managing appeals. Many respondents recognised cost and time efficiencies as a result of the temporary flexibility to offer appeals remotely, with several respondents reporting 'significant' cost savings in their borough. These cost efficiencies included savings on administrative duties for example, arranging venue hire and organising refreshments; and savings on printing, photocopying and postage costs. Several respondents recognised the time savings achieved by conducting appeals remotely such as no time spent travelling or in waiting rooms, making the 'cost per day' more efficient.

One rural local authority commented that savings from carbon dioxide emissions would be potentially significant in large rural counties. Another noted that remote appeals help local authorities to achieve their 'green' targets by reducing their carbon footprint.

**4.6 Do you believe the proposed Appeals Code will result in any new operational burdens for schools?**

**4.7 Do you believe the proposed Appeals Code will result in any new costs for schools?**

73% of respondents who answered on behalf of schools or academies believed the proposed changes to the Appeals Code will not result in new operational burdens for schools. 81% believed the changes will not result in new costs for schools.

Of those respondents who believed the proposed changes would result in new operational and cost burdens, these were described as organisational or administrative burdens and potential technology costs.

**4.8 Do you believe the proposed Appeals Code will result in any reduced operational burdens for schools?**

**4.9 Do you believe the proposed Appeals Code will result in any savings for schools?**

46% of respondents who answered on behalf of schools or academies believed the proposed changes will result in reduced operational burdens for schools, while 48% believed there will be savings for schools.

Respondents felt that remote appeals reduced administrative tasks such as arranging a venue and hospitality and recognised costs savings associated with these tasks. Others felt remote appeals made the process more efficient as there was no need to travel.

Some respondents believed the flexibility to allow presenting officers to attend remotely reduced operational burdens and achieved cost savings for schools as the staff member is not required to be out of school for a long time, meaning schools do not need to organise and fund staff cover.

**Government response**

We are giving admission authorities the option of holding remote and hybrid appeals in addition to face to face appeals. Whether or not to use these flexibilities will be a decision for individual admission authorities – we are not placing any new requirements upon them. Where local authorities have already been making use of the temporary flexibility to hold remote appeals, they have mainly reported or anticipated cost savings as a result. Where local authorities have anticipated additional costs, for example, where they had not been providing remote appeals during the pandemic and therefore would need to invest in technology if they decided to offer remote appeals, they expected the costs to be offset or exceeded by future cost savings.

## Next steps

Admissions law is set out in primary and secondary legislation. It is reflected in the statutory School Admissions Code and the Appeals Code which carry the force of secondary legislation. Consequently, there is a statutory process to make any changes to the Appeals Code<sup>2</sup>. This consultation formed part of that process. Following a small number of post-consultation amendments, we will lay the revised Appeals Code before Parliament and – subject to Parliamentary approval – it will come into force on 1 October 2022.

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<sup>2</sup> See [section 85 of the School Standards and Framework Act 1998](#).

## Annex A: List of organisations that responded to the consultation

Please note, where a respondent or organisation has requested to remain private, we have respected their wishes and omitted them from the list.

- Association of School and College Leaders
- Bath and North East Somerset Council
- Birmingham City Council
- Birmingham Diocesan Education Service
- Blackburn with Darwen Borough Council
- Blackpool Council
- Bolton Council
- Bournemouth, Christchurch and Poole Council
- Bowker Consulting Ltd.
- Bristol City Council
- Cambridgeshire County Council
- Caveney and Langley, Education Appeals, Clerking and Training Ltd.
- Central Bedfordshire Council
- Cheshire East Council
- Cheshire West and Chester Council
- City of Wolverhampton Council
- Cornwall Council
- Coventry Diocesan Board of Education
- Croydon Council
- Derby City Council
- Derbyshire County Council
- Devon County Council
- Diocese of Chichester
- Diocese of Hexham and Newcastle
- Doncaster Council
- Dudley Metropolitan Borough Council
- Durham County Council
- East Sussex County Council
- Enfield Council
- Essex County Council
- Gateshead Council
- Gloucestershire County Council
- Hampshire County Council
- Herefordshire Council
- Hertfordshire County Council
- Kent County Council
- Kirkless Council
- Lancashire County Council
- Leeds City Council
- Leicestershire County Council
- Lincolnshire County Council
- Local Government and Social Care Ombudsman
- London Borough of Hammersmith and Fulham
- London Borough of Islington



- London Borough of Lambeth
- Luton Council
- Manchester City Council
- Medway Council
- National Association of School Appeal Clerks
- National Association of Schoolmasters and Union of Women Teachers
- National Governance Association
- National Network of Parent Carer Forum
- Newcastle City Council
- Norfolk County Council
- North East Lincolnshire Council
- North Northamptonshire Council
- North Somerset Council
- North Yorkshire County Council
- Nottinghamshire County Council
- Parentkind
- Peterborough City Council
- Plymouth City Council
- Portsmouth City Council
- Royal Borough of Kensington and Chelsea Council
- Royal Borough of Windsor and Maidenhead Council
- Rutland Clerking Services Ltd.
- Salford City Council
- Sandwell Metropolitan Borough Council
- Sefton Council
- Sharon Oliver Consultancy Ltd.
- Sheffield City Council
- Solihull Metropolitan Borough Council
- Southend Borough Council
- South Gloucestershire Council
- Southampton City Council
- Southend-on-Sea City Council
- Stoke-on-Trent City Council
- Suffolk County Council
- Surrey County Council
- Tameside Metropolitan Borough Council
- The Catholic Education Service
- Thurrock Council
- Torbay Council
- Tower Hamlets Council
- Wakefield Council
- Westminster Council
- West Northamptonshire Council
- West Sussex County Council
- Wokingham Borough Council

## Annex B: Numerical data summary of responses per question

Please note, where consultees have provided a response where they have not answered the specific questions set out below but provide wider feedback this will be logged in the numerical data analysis as 'not answered', however please be assured all comments were taken in account.

### Section 1: Constitution of appeal panels – membership

<b>1.1 Do you agree that admission authorities should have the flexibility to allow a panel of two to continue hearing and making decisions on appeals in the event the third member has to withdraw either before or part way through an appeal or group of appeals?</b>	<b>Total</b>	<b>Percent</b>
Yes	402	82%
No	70	15%
Don't know	11	2%
Not answered	5	1%

<b>1.2 Do you believe that allowing a panel of two to continue hearing and making decisions on appeals is beneficial and means that appeal hearings can continue without unreasonable delay?</b>	<b>Total</b>	<b>Percent</b>
Yes	408	84%
No	60	12%
Don't know	11	2%
Not answered	9	2%

<b>1.3 In circumstances where a panel member has to withdraw do you believe that the appeal(s) will continue to be heard in a fair and transparent way by the two remaining panel members, even if this means both members are either lay people or people with an education background?</b>	<b>Total</b>	<b>Percent</b>
Yes	383	79%
No	73	15%
Don't know	21	4%
Not answered	11	2%

<b>1.4 Do you believe that this flexibility should only be permitted where either postponing or rearranging the appeal(s) would cause unreasonable delay to the determination of the appeal?</b>	<b>Total</b>	<b>Percent</b>
Yes	339	69%
No	110	23%
Don't know	28	6%
Not answered	11	2%

## **Section 2: Attendance and representation**

<b>2.1 Do you agree that the Appeals Code should include an option for holding appeals remotely?</b>	<b>Total</b>	<b>Percent</b>
Yes	455	93%
No	25	5%
Don't know	6	1%
Not answered	2	0.4%

<b>2.2 Do you agree the following formats allow for a fair and transparent appeal hearing?</b>				
<b>Format</b>	<b>Face to face</b>	<b>Telephone</b>	<b>Video Conference</b>	<b>Written Submission</b>
Yes	478 (98%)	291 (60%)	444 (91%)	254 (52%)
No	2 (0.4%)	120 (25%)	31 (6%)	172 (35%)
Don't know	1 (0.2%)	61 (12%)	6 (1%)	49 (10%)
Not answered	7 (1%)	16 (3%)	7 (1%)	13 (3%)

<b>2.3 Do you agree that admission authorities should make the decision on whether to offer appeal hearings in person, remotely or a choice to attendees of either?</b>	<b>Total</b>	<b>Percent</b>
Yes	377	77%
No	87	18%
Don't know	18	4%
Not answered	6	1%

<b>2.4 Do you agree that appeals should only be considered on the basis of written evidence submitted where:</b>		
<b>a) the presenting officer does not attend and the appeal panel is satisfied that it can resolve the case by using evidence submitted by the admission authority if the appellant will not be disadvantaged in doing so; or</b>	<b>Total</b>	<b>Percent</b>
Yes	361	74%
No	91	19%
Don't know	24	5%
Not answered	12	2%

<b>2.4 Do you agree that appeals should only be considered on the basis of written evidence submitted where:</b>		
<b>b) The appellant fails or is unable to attend and it is impractical to offer an alternative date?</b>	<b>Total</b>	<b>Percent</b>
Yes	392	80%
No	59	12%
Don't know	24	5%
Not answered	13	3%

<b>2.5 Do you believe that hybrid appeal hearings should be an option? By 'hybrid' we mean where one or more participants join remotely (by video and/or telephone) and one or more attend in person.</b>	<b>Total</b>	<b>Percent</b>
Yes	304	62%
No	136	28%
Don't know	39	8%
Not answered	9	2%

<b>2.6 Do you believe that hybrid appeal hearings can be conducted in a fair and transparent way which enables the appellant and presenting officer an opportunity to present their case?</b>	<b>Total</b>	<b>Percent</b>
Yes	337	70%
No	93	19%
Don't know	48	10%
Not answered	3	1%

### Section 3: Minor technical drafting changes

<b>3.1 The purpose of the minor technical drafting changes, as set out in Annex A of the consultation document, is mainly to update references to legislation, Codes and departmental names.</b>	<b>Comments received</b>
To clarify in paragraph 2 that the Appeals Code does not apply to any maintained or Academy special school, alternative provision or stand-alone 16 – 19 provision.	1
To insert a new footnote (footnote 1) accounting for the changes to the appeals process made by the temporary regulations.	0
To update the reference in footnote 2 to academies defined in Section 1A of the Academies Act 2010.	0
To update out of date regulations referenced in footnote 5 to ‘paragraph 6 of the Schedule to the Education (Specified Work) (England) Regulation 2012’.	0
To update out of date legislation in paragraph 2.27 to ‘Data Protection Act 2018’.	1
To change paragraph numbers in footnote 14 to reflect the new paragraph numbers in the School Admissions Code 2021.	0
To remove out of date wording in paragraph 3.20 and the reference to this paragraph in paragraph 4.3 with regards to the Equality and Human Rights Commission’s Code of Practice for Schools.	0
To replace out of date wording in paragraph 3.20 with ‘Children with Education, Health and Care plans’.	0
To change the paragraph number referenced in paragraph 3.22 to reflect the new paragraph numbers in the School Admissions Code 2021.	0
To change the paragraph numbers referenced in paragraph 3.23 to reflect the new paragraph numbers in the School Admissions Code 2021.	0
To change the paragraph number referenced in footnote 16 to reflect the new paragraph numbers in the School Admissions Code 2021.	0
To insert a new footnote (footnote 17) to signpost to the definition of “Challenging behaviour” included in the new School Admissions Code 2021.	0
To change the paragraph number referenced in footnote 20 to reflect the new paragraph numbers in the School Admissions Code 2021.	0
To change the paragraph number referenced in footnote 24 to reflect the new paragraph numbers in the School Admissions Code 2021.	0
To change the organisation name to ‘Local Government and Social Care Ombudsman’ in paragraph 5.4, Appendix 2 (title), Appendix 2 (1) and Appendix 2 (3).	0
To remove out of date wording on the ‘Equality and Human Right’s Commissions Code of Practice for Schools’ in Appendix 1 (7).	0
To replace ‘Young People’s Learning Agency’ with ‘Education and Skills Funding Agency in Appendix 2 (4) and to update the contact details for the ESFA to include reference to the online form instead of email in Appendix 2 (5).	0

## Section 4: Impact assessments

### Public Sector Equality Duty

<b>4.1 Do you have any comments about the potential impact of our proposals on individuals on the basis of their protected characteristics?</b>	
Comments received	137

### New Burdens Assessment

94 consultation responses were from local authorities. Percentages in questions 4.2 – 4.5 relate to the total number of responses received from local authorities.

135 consultation responses were from respondents linked to schools and academy trusts, including 4 responses from different Dioceses. Percentages in questions 4.6 – 4.9 relate to the total number of responses received from respondents linked to schools and academy trusts.

<b>4.2 (for local authorities) Do you believe the proposed Appeals Code will result in any <u>new operational burdens</u> for local authorities?</b>	<b>Total</b>	<b>Percent</b>
Yes	19	20%
No	70	75%
Not answered	5	5%

<b>4.3 (for local authorities) Do you believe the proposed Code will result in any <u>new costs</u> for local authorities?</b>	<b>Total</b>	<b>Percent</b>
Yes	26	28%
No	62	66%
Not answered	6	6%

<b>4.4 (for local authorities) Do you believe the proposed Code will result in any <u>reduced operational burdens</u> for local authorities?</b>	<b>Total</b>	<b>Percent</b>
Yes	43	46%
No	44	47%
Not answered	7	7%

<b>4.5 (for local authorities) Do you believe the proposed Code will result in any <u>savings</u> for local authorities?</b>	<b>Total</b>	<b>Percent</b>
Yes	57	60%
No	28	30%
Not answered	9	10%

<b>4.6 (for schools) Do you believe the proposed Appeals Code will result in any <u>new operational burdens</u> for schools?</b>	<b>Total</b>	<b>Percent</b>
Yes	18	13%
No	99	73%
Not answered	18	13%

<b>4.7 (for schools) Do you believe the proposed Appeals Code will result in any <u>new costs</u> for schools?</b>	<b>Total</b>	<b>Percent</b>
Yes	12	9%
No	109	81%
Not answered	14	10%

<b>4.8 (for schools) Do you believe the proposed Appeals Code will result in any <u>reduced operational burdens</u> for schools?</b>	<b>Total</b>	<b>Percent</b>
Yes	62	46%
No	58	43%
Not answered	15	11%

<b>4.9 (for schools) Do you believe the proposed Appeals Code will result in any <u>savings</u> for schools?</b>	<b>Total</b>	<b>Percent</b>
Yes	65	48%
No	53	39%
Not answered	17	13%





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