



Office of  
the Schools  
Adjudicator

# Case management procedures

How the OSA deals with objections to  
school admission arrangements

April 2023

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## Introduction

This document sets out the formal procedures that the Office of the Schools Adjudicator (OSA) follows when considering objections to admission arrangements under S88H and S88I of the School Standards and Framework Act 1998.

The process for making an objection is on [School admission arrangements](#). The procedures will be explained in letters sent to the objector and other parties as the case progresses.

## Terminology

1. In these procedures the following terminology is used:

‘1998 Act’ means the School Standards and Framework Act 1998

‘adjudicator’ means a person appointed under section 25 of the 1998 Act. In these procedures references to ‘an adjudicator’ or ‘the adjudicator’ includes references to adjudicators where an admissions case is allocated to more than adjudicator

‘admissions case’ means the adjudicator’s consideration of admission arrangements in accordance with section 88H, section 88I (or both sections) of the School Standards and Framework Act

‘admission year’ means the school year in which pupils are to be admitted to schools under the admission arrangements in question

‘Chief Adjudicator’ means the person designated as such by the Secretary of State in accordance with the Education (References to Adjudicator) Regulations 1999

‘Code’ means the most recent version of the Code for School Admissions issued under section 84 of the 1998 Act

‘determination year’ means the school year immediately preceding the offer year. This is the school year in which admission authorities determine their admission arrangements.

‘direction’ means a requirement specified by an adjudicator relating to any procedural issue arising in the conduct of case

‘first case’ means, where a number of cases raise the same or substantially the same issues, a case which will be considered before the other such cases with a view to applying, where appropriate, the decisions of the adjudicator in the first case to such issues in the other cases

‘local authority’ means the local authority with responsibility for education in the area in which the school is located

‘objection form’ means the form for [referring an objection](#) to the adjudicator.

‘objector’ means a person or body who has referred an objection about the admission arrangements of a school to the adjudicator under section 88H of the 1998 Act

‘offer year’ means the school year immediately preceding the school year in which pupils are to be admitted to schools under the admission arrangements in question. This is the school year in which the offers of school places are communicated

‘OSA’ means the staff of the Office of the Schools Adjudicator which provides administrative support to the adjudicators

‘parent’ means a person who is the father or mother of a child or a person who is not the father or mother but who has parental responsibility (as defined in the Children Act 1989) for the child or who has care of the child

‘party’ means any or all of the following:

- the objector
- the admission authority for the school or schools whose arrangements are under consideration by the adjudicator
- the governing board for the school or schools whose arrangements are under consideration by the adjudicator where that governing board is not the admission authority
- the local authority for the area in which the school is located where the local authority is not the admission authority
- the body or person representing the relevant religion or religious denomination where the school is designated by the Secretary of State as having a religious character (commonly known as faith schools) and
- any other person or body the adjudicator has reasonably determined should be made a party

‘referrer’ means a person or body who causes the admission arrangements of a school to come to the attention of the adjudicator pursuant to section 88I(5) of the 1998 Act

‘school’ means a maintained school (community, foundation, voluntary aided or voluntary controlled) or an academy. (For the avoidance of doubt, a free school is an academy)

‘working day’ means any day except a Saturday or Sunday, Christmas Day, Good Friday or a bank holiday under section 1 of the Banking and Financial Dealings Act 1971

## **Overriding objective and parties' obligation to co-operate with the adjudicator**

2. The overriding objective of these procedures is to enable the adjudicator to deal with cases fairly and justly.

Dealing with a case fairly and justly includes:

- dealing with the case in ways which are proportionate to the importance of the case
- the complexity of the issues, the anticipated costs and the resources of the parties
- avoiding unnecessary formality and seeking flexibility in the proceedings
- ensuring, so far as practicable, that the parties are able to participate fully in the process
- using any special expertise of the adjudicator effectively
- avoiding delay, so far as compatible with proper consideration of the issues

The adjudicator must seek to give effect to the overriding objective when applying these procedures in the exercise of the adjudicator's powers and duties.

The parties must:

- help the adjudicator to further the overriding objective
- co-operate with the adjudicator generally

## **Case management powers**

3. (1) Subject to the provisions of the 1998 Act and the Education (Adjudicator Inquiry Procedures etc) Regulations 1999 and the Education (References to Adjudicator) Regulations 1999, and as provided for in schedule 5 to the 1998 Act, the adjudicator may regulate his or her own procedure.

(2) The adjudicator may give a direction, in relation to the conduct or disposal of admissions cases at any time, including a direction amending, suspending or setting aside an earlier direction.

(3) In particular, and without restricting the general powers in paragraphs (1) and (2), the adjudicator may:

- override or alter any procedure set out in these procedures
- extend or shorten the time for complying with any procedure or direction
- consolidate or consider together two or more admissions cases or parts of cases, or treat an admissions case as a first case
- permit or require a party to amend a document

- permit or require a party to provide documents, information or submissions to the adjudicator
- permit any other person or body to provide documents, information or submissions to the adjudicator
- deal with an issue in an admissions case as a preliminary issue
- hold a meeting to consider any matter, including a case management issue
- decide the form of any meeting
- adjourn or postpone a meeting
- ask a party to produce documents for a meeting
- stay (put on hold) an admissions case

## Procedure for giving directions

4. The adjudicator may give a direction on his or her own initiative.

Unless the adjudicator considers that there is good reason not to do so, the OSA must send written notice of any direction to every party and to any other person affected by the direction.

## Failure to comply with procedures or directions

5. If a party has failed to comply with a requirement in these procedures, or a direction, the adjudicator may take such action as the adjudicator considers just, which may include:

- waiving the requirement
- requiring the failure to be remedied
- proceeding to make a determination without material which has been requested from any party but not provided, or not provided in the form specified in the request

## Substitution and addition of parties

6. (1) The adjudicator may give a direction substituting a party if:

- the wrong person or body has been named as a party
- the substitution has become necessary because of a change in circumstances since the start of proceedings

(2) The adjudicator may give a direction adding a person to the proceedings as a party.

(3) If the adjudicator gives a direction under paragraph 1 or 2, he or she may give such consequential directions as are considered appropriate.

## Representatives

7. A party may appoint a representative (whether a legal representative or not) to represent that party in an admissions case.

Where a party appoints a representative, that party (or the representative if the representative is a legal representative) must send or deliver to the adjudicator written notice of the representative's name, postal and email address and telephone number.

Anything permitted or required to be done by a party under these procedures or a direction may be done by the representative of that party.

When the OSA receives notice of the appointment of a representative the OSA:

- will record that party as a represented party
- will send all communications, including any notices or directions issued under these procedures, to the representative and will only accept communications from the representative
- will not communicate directly with that party or send copies of communications to that party
- may assume that the representative is and remains authorised as such until the OSA receives written notification that this is no longer the case from the representative or the represented party

## Calculating time

8. (1) An act required by these procedures or a direction to be done on or by a particular day must be done before 5pm on that day.

(2) If the time specified by these procedures or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

(3) The days from 25 December to 1 January inclusive must not be counted when calculating the time by which any act must be done.

(4) Sub-paragraphs (2) and (3) do not apply where the adjudicator directs that an act must be done by or on a specified date.

## Communications

9. Subject to paragraph 24 (relating to meetings), all communications are to be through the OSA. There are to be no communications directly between the adjudicator and any party or between the parties.

All communications will be by email save where an individual who is an objector or referrer with good reason requests that communications with him or her is by post and the adjudicator agrees in writing to postal communication.

All documents submitted to the OSA will be forwarded to all other parties by the OSA save where an adjudicator directs otherwise.

The adjudicator may decide not to forward to the parties:

- documents which are irrelevant to the issues under consideration
- evidence which is excluded under paragraph 10 on Evidence and submissions
- all or part of a document containing information which, in the opinion of the adjudicator, includes offensive content, or is likely to cause any person harm or distress and where the adjudicator is satisfied (having regard to the proper exercise of his or her functions) that it is proportionate not to forward the information in question

## Evidence and submissions

10. The adjudicator may give directions on:

- any issues on which he or she requires evidence or submissions;
- the nature of the evidence or submissions required and the manner in which any evidence or submissions are to be provided
- the time at which any evidence or submissions are to be provided

The adjudicator may:

- admit evidence whether or not the evidence would be admissible in a civil trial in England and Wales
- exclude evidence, submissions or information that would otherwise be admissible where:
  - such documentation was not provided within the time allowed by a direction;
  - such documentation was otherwise provided in a manner that did not comply with a direction; or
  - it would be unreasonable to admit such documentation

## Withdrawal

11. An objector may give notice of the withdrawal of an objection or any part of it by sending or delivering to the adjudicator a written notice of withdrawal.

The withdrawal of an objection will not affect any consideration of the admission arrangements by the adjudicator under S88I of the 1998 Act.



## Objections under S88H of the 1998 Act

12. (1) Subject to paragraph (2) an objector or referrer may only start an objection by sending the completed objection form by email or by post on or before 15 May in the determination year or by delivering it by hand so that it is received by the OSA on or before 15 May in the determination year.

(2) Where a body or person contacts the OSA on one of the five working days before 15 May in the determination year by email or by post expressing an intention to make an objection but has not completed the objection form and sent it to the OSA by 15 May, that body or person will be given a period of 7 days from 15 May to complete the form and return it to the OSA by email or by post or by delivering it by hand in order for the objection to be admitted.

## Protecting the identity of objectors

13. The identity of a person with parental responsibility for a child who will be the right age to join the school in the September of the year to which the objection relates will be withheld from all other parties on request.

14. The Chief Adjudicator may grant a request from an objector who does not have parental responsibility to have their identity withheld from other parties. Examples of circumstances where the request might be granted include requests from individuals with a close connection to the school which is the subject of the objection, or a request by a person with parental responsibility for a child who will be the right age to join the school in a subsequent year.

15. Where it has been agreed that the identity of an objector will be withheld from other parties, the OSA will redact details of the objector's identity from the objection form before it is circulated to other parties. Thereafter, the OSA will also remove email headings giving the objector's name and email address before circulation of material to other parties. It will be the responsibility of the objector to ensure that the further content of material submitted to the OSA does not contain information which would allow the objector to be identified to the other parties.

## Procedure following receipt of an objection

16. Following receipt of an objection the OSA will write to the objector and to each party:

- attaching a copy of the objection (save that this will not be sent to the objector);
- giving details of the adjudicator or adjudicators to whom the objection has been allocated and, where the Chief Adjudicator has allocated the objection to more than one adjudicator, setting out which adjudicator is to be the lead adjudicator;
- giving contact details for the case manager within the OSA dealing with the case and to whom all communications are to be sent; and

- setting out the other persons or bodies which are to be parties.

The OSA will also write to the admission authority requesting:

- a copy of the determined admission arrangements (including any supplementary information forms used) for each point of entry into the school for September of the admission year; and
- the date on which the arrangements were determined and relevant extracts of the minutes of the meeting at which the admission arrangements were determined.

17. If the objection is received after the deadline of 15 May, or such later date as has been specified in relation to a particular case in paragraph 12 in the determination year, the OSA will write to the objector stating that the objection cannot be admitted and whether or not the adjudicator intends nevertheless to consider the admission arrangements under S88I of the 1998 Act.

18. If the whole of the objection falls within those matters which may not be referred to the adjudicator, the OSA will write to the objector stating that the objection cannot be admitted. Matters which may not be referred under S88H of the 1988 Act are set out in objections to some selective admission arrangements objections raising the same or substantially the same objection to the same admission arrangements within two years of them having been determined by an adjudicator of the School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) (England) Regulations 2012. The OSA will also state whether or not the adjudicator intends nevertheless to consider the admission arrangements under S88I of the 1998 Act.

19. If the objection otherwise fails to comply with the requirements of these procedures the OSA may write to the objector setting out details of that non-compliance and giving the objector the opportunity to rectify the objection within the time stated.

20. If the admission arrangements for entry in the admission year have not been determined by the admission authority, the objection cannot be admitted until such time as the admission arrangements are so determined.

21. If the objection is not admitted, the OSA will inform all parties of this fact and, where relevant, that the objection cannot be considered until the admission arrangements have been determined.

22. If the objection is admitted the OSA will write to the objector and to each party setting out information and directions including, including where relevant:

- those points raised within the objection which are within the adjudicator's jurisdiction and those which are not;
- any issues in relation to the admission arrangements which will be considered by the adjudicator under S88I of the 1998 Act;
- whether this admissions case is to be treated as a first case;

- whether another case raising the same or substantially the same issues is to be treated as a first case and this case is to be stayed pending the determination of that first case; and
- any directions in relation to:
  - information, documents or submissions to be provided by any party to the OSA;
  - a timetable for the provision of such information, documents or submissions to the OSA; and
  - the setting out of any limits or restrictions on the provision of further information, documents or submissions as are reasonable in the opinion of the adjudicator.

## **Procedure on consideration of admission arrangements under S88I of the 1998 Act**

23. Where the adjudicator is to consider admission arrangements under S88I of the 1998 Act, the Chief Adjudicator will refer the matter to one or more adjudicators under paragraph 3 of the Education (References to Adjudicator) Regulations 1999.

The OSA will write to the admission authority requesting:

- a copy of the determined admission arrangements (including any supplementary information forms used) for each point of entry into the school for September of the year in question; and
- the date on which the arrangements were determined and relevant extracts of the minutes of the meeting at which the admission arrangements were determined.

If the admission arrangements have been determined, the OSA will write to each party setting out information and directions including, where relevant, the matters set out under paragraph 22.

## **Meetings**

24. (1) Where an adjudicator is considering admission arrangements under S88H or S88I of the 1998 Act, he or she may decide to hold a meeting or meetings. If so, the OSA will write to the parties giving details of the meeting including the date, time and place of the meeting and those attending.

(2) Where appropriate, the OSA will take such steps as the adjudicator deems necessary to inform others with an interest of the details of the meeting, and to invite them to attend the meeting.

(3) Where a party or another with an interest in the matter in accordance with paragraph (2) above decides not to attend a meeting or, having indicated that they would attend

does not do so, the adjudicator may proceed to hold a meeting in the absence of that party.

(4) Where an objector's identity has been withheld from other parties in accordance with these procedures, the objector will be invited to any meeting held. If the objector declines to attend on the grounds that attendance might reveal his or her identity, the adjudicator may proceed with the meeting in the objector's absence. Neither the OSA nor the adjudicator can take steps to protect the objector's identity from other parties or persons or representatives of bodies with an interest at a meeting.

(5) The adjudicator may be accompanied by a member of the OSA or by another adjudicator at any meeting.

(6) The adjudicator and any accompanying member of the OSA or adjudicator may take notes at any meeting. These notes will not be kept as a formal record of the meeting, and will not be made available to the parties.

(7) The adjudicator will make clear that any party or persons or representatives of bodies with an interest attending a meeting may take notes for his or her own use.

## Decisions

25. Where an objection is referred to the adjudicator which falls within his or her jurisdiction the adjudicator must by section 88H of the Act decide whether, and (if so) to what extent, the objection should be upheld.

Where the adjudicator considers admission arrangements, the adjudicator must by section 88I of the Act decide whether they conform with the requirements relating to admission arrangements and, if not, in what respect they do not.

Where the adjudicator makes a decision as described above he or she must by section 88K of the Act publish a report containing:

- the adjudicator's decision on the objection or (as the case may be) on whether the admission arrangements conform with the requirements relating to admission arrangements; and
- the reasons for that decision

## Clerical mistakes, accidental slips and omissions

26. The adjudicator may at any time correct any clerical mistake or other accidental slip or omission in a report, direction or any document produced by him or her, by sending notification of the amended report or direction, or a copy of the amended document, to all parties.



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