

## **Procedure for dealing with complaints that independent appeal panels for admission to Academies have not complied with the School Admission Appeals Code.**

### **Key Principles**

1. All Academy Appeals must comply with the [School Admission Appeals Code](http://media.education.gov.uk/assets/files/doc/3/3986_appeals_code.doc) (the Code). The Code can be found here:  
[http://media.education.gov.uk/assets/files/doc/3/3986\\_appeals\\_code.doc](http://media.education.gov.uk/assets/files/doc/3/3986_appeals_code.doc)
2. One of the YPLA's roles is to ensure that Academies comply with the Code.
3. An independent appeal panel's decision can only be overturned by the courts.
4. The YPLA will deal with complaints that Academy appeal panels have not complied with the Code as efficiently and quickly as possible.
5. Complaints should be dealt with impartially, fairly and proportionately.
6. In dealing with complaints, the YPLA will comply with its duty to promote equality and diversity.

### **What the YPLA will do:**

7. The YPLA will deal with complaints about independent appeal panels for Academies as set out in paragraphs 4.3 and 4.6 of the School Admission Appeals Code ("the Code"), on behalf of the Secretary of State.<sup>1</sup>
8. The YPLA will consider whether the arrangements comply with the Code. This will involve a consideration of whether:
  - a. the panel was correctly constituted by the Academy Trust;
  - b. the Academy Trust has acted reasonably in exercising functions in respect of the appeal process or has failed to discharge any funding agreement duty in relation to that process (for example in constituting the panel or by acting in breach of the mandatory provisions of the Code); and
  - c. any failure to comply with the Code or failure to act reasonably in its application of the Code has, or may have, caused an injustice.

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<sup>1</sup> The Secretary of State's powers to investigate complaints about independent appeal panels for admission to Academies are contained within paragraphs 4.3 and 4.6 of the School Admission Appeals Code. The Secretary of State formally delegates this power to the Young People's Learning Agency under section 77 of the Apprenticeships, Skills, Children and Learning Act 2009 and in his letter setting out the YPLA's remit.

9. Where the YPLA finds evidence that any such failure has, or may have, caused an injustice, it can require that a new appeal is heard by a fresh panel but it cannot substitute its own view of the facts for those of the original appeal panel or overturn the panel's decision.

**What the YPLA will not do:**

10. The YPLA on behalf of the Secretary of State cannot review or overturn decisions of independent appeal panels; an appeal panel's decision can only be overturned in the courts (see paragraph 4.7 of the Code). This means that the YPLA is not able to consider complaints where a person simply feels that the decision taken was wrong.
11. The YPLA will not usually investigate complaints about independent appeal panels more than 12 months after the panel sat.

**Who complaints should be sent to:**

12. Complaints that the independent appeal panels for admission to Academies have not complied with the Code will be investigated by the Academies Directorate of the YPLA in consultation with the YPLA Legal Team.
13. Complaints about the independent appeal panel process should be made in writing to the Academies Central Unit (Appeal Complaints), Young People's Learning Agency, Cheylesmore House, Quinton Road, Coventry, CV1 2WT or by e-mail to [academyquestions@ypla.gov.uk](mailto:academyquestions@ypla.gov.uk).

**How the YPLA will respond:**

14. On receipt of a complaint the YPLA will check:
  - a. the matter is one which the YPLA can investigate; and
  - b. if the panel sat more than 12 months ago. Where this is the case the YPLA will not normally investigate, unless the complainant has good reason for the delay in making the complaint.
13. The YPLA will send a letter or email to the complainant, acknowledging receipt of their complaint and setting out:
  - a. the role of the YPLA in dealing with complaints about independent appeal panels;
  - b. whether the matter is one that the YPLA will be able to investigate; and
  - c. a formal request for further information or clarification if needed.

14. The way in which the YPLA will then investigate is to send a copy of the complaint (in full) to the Clerk to the independent appeal panel ("the Clerk"), along with any summary or identification of the main allegations, seeking any comments or other information that they wish to provide bearing in mind the nature of the complaint including, but not limited to, their contemporaneous notes of the appeal. Upon receipt, the YPLA will seek further information or clarification from the Clerk and/or complainant where necessary.
15. The YPLA may also send the complaint to the Academy Trust and seek its views. This course of action would be especially relevant when the complaint is that the panel has been incorrectly constituted.
16. The YPLA will then formulate a view on the allegations and inform the parties of its decision.

**What action the YPLA can take:**

17. If the YPLA finds that the appeal panel was not set up correctly or that there has been maladministration of the appeal process which has, or may have, caused an injustice, it will write to the Academy requiring a fresh appeal to be conducted before a new panel and, where possible, a new Clerk. A copy of the letter will be sent to the complainant and the Clerk.
18. If the YPLA finds that the panel has complied with the Code or that any failure to comply with the Code or other maladministration is not thought to have caused an injustice to the complainant, it will write to the complainant to inform them of the decision. A copy of the letter will be sent to the Academy and the Clerk. In such a case it is highly unlikely that a fresh appeal will be required.
19. In all cases the YPLA will explain what evidence it considered and the reasons for its decisions.
20. If an Academy disagrees with the YPLA's decision that a fresh appeal hearing be held, the YPLA will request that the Secretary of State considers enforcing compliance with the funding agreement.

**If the complainant is not satisfied with how the YPLA has handled their complaint**

21. If a complainant is not satisfied that the YPLA has followed this procedure when dealing with their complaint, the complainant should refer to the

*[Procedure for dealing with complaints about the YPLA](http://www.ypla.gov.uk/aboutus/contactus/complaints/) (available from <http://www.ypla.gov.uk/aboutus/contactus/complaints/>).*

22. The Secretary of State can not review or overturn the decision of an independent appeal panel. When considering complaints on the Secretary of State's behalf, the YPLA can only review whether the panel has complied with the Code. An independent appeal panel's decision can only be overturned by the courts and complainants would need to get their own legal advice in relation to this.

**Flow chart outlining how complaints will be dealt with:**

