

VIRTUAL SCHOOL APPEALS

GUIDANCE FOR PANEL MEMBERS PARTICIPATING IN VIRTUAL APPEALS

Changes to the Appeals Process

Due to current restrictions in relation to social distancing, at present and until further notice, school admission appeals will not take place in person at County Hall.

On 24 April 2020, emergency regulations¹ came into force, which temporarily amended the 2012 regulations to give additional flexibility when dealing with appeals during the outbreak of the Coronavirus, and to ensure that appeal timetables work in light of school closures.

The Key Changes are set out in appendix one. In summary they are;

- Hearings should be conducted by telephone or video conference where possible.
- Where telephone or video conference is not possible, appeals conducted entirely on the basis of written submissions are acceptable. Parties will be given the opportunity to submit further written evidence if they wish to have a written appeal.
- Where a panel member needs to withdraw part way through the appeals process, for a reason related to coronavirus², 2 panel members can continue.
- Where the Panel member withdrawing is the chair the clerk appoints one of the remaining panel members as chair. The chair still has the casting vote³.
- Certain deadlines relating to hearing appeals have been revised and appeals must be considered as soon as reasonably practicable.
- The temporary regulations mean that decision letters should be sent within 7 calendar days of the hearing wherever possible.

The hearing process & decision making

The process and procedure for appeals remains the same, for example, secondary transfer appeals will still follow a two stage process; the decision making for infant class size appeals remains unchanged.

As usual, Panel members will have an opportunity to ask questions of the admission authority representative and appellants.

Appeals will be heard using 'Skype for Business', via live audio. Appellants will have an opportunity to submit additional evidence prior to the hearing. All this information will be available in your appeal bundle. You will receive a hard paper copy of the appeal bundle, as usual.

However, as set out in the temporary regulations, the panel will consider for each appellant, whether the appeal can be heard fairly and transparently. To inform decision making on this issue, in advance of the hearing, all appellants will be contacted by the Clerk, to ensure they

¹ The School Admissions (England) (Coronavirus) (Appeal Arrangements) (Amendment) Regulations 2020.

² "r6. coronavirus exception" is a condition which applies where, for a reason related to the incidence or transmission of coronavirus.

have access to take part using remote access⁴, this will ensure there is no disadvantage to appellants. In the case of group appeal all appellants have the same rights of access, so for example when audio is used, cameras will be switched off for all participants.

Zeenat Sankriwala (*School Appeals Administrator*) will contact you to request confirmation of your availability and she will then send out an invite with the relevant log in details.

Appellants will receive written instructions to enable them to take part.

The Virtual hearing Process

Where you receive an invitation to join a school appeal hearing, you will be contacted by the clerk prior to the appeal hearing to explain the log in details and the process.

The virtual appeals hearing process is set out in appendix 2. In summary, there will be 3 virtual rooms.

Panel Members room – restricted access for clerk panel members and Zeenat. You can use this room for a pre-meet with the clerk, reconvene following an adjournment and decision making.

Hearing Room 1 – For stage 1 appeals, to include all participants

Hearing room 2 – For all stage 2 or individual appeals where there are multiple appeals. To ensure confidentiality, each appellant will have an individual log in for a virtual meeting space. This will also be shared with panel members, presenting and presenting officers.

Using Skype

The process for using Skype is very straight forward. You will be guided through the process prior to taking part in the appeal itself.

The instructions to download and dial in are contained in Appendix 3. Please note Zeenat or a clerk can contact you to talk you through the process of downloading the software. If you would find this to be helpful please contact Zeenat at her email address which is **Zeenat.Sankriwala@leics.gov.uk**

and we will contact you to provide guidance.

Tips for preparing and taking part for ‘live’ virtual hearing

As an independent panel member, you perform a ‘quasi-judicial’ function. As with the appeals process, there will need to be some formality to ensure lawful decisions are made and that appellants have confidence in the process.

Some practical guidance on preparing for and attending the virtual appeal hearings is set out below:-

⁴ “remote access” means access to an appeal hearing to enable those who are not all present together at the same place to attend or participate simultaneously in the hearing by electronic means, including by live audio and live video link.

1. Prior to the hearing

- i. Testing your connection;
 - a. Please be ready at least 15 minutes before the call
 - b. make sure the device you will use is fully charged (or plugged in), so you do not get cut off during the hearing
- ii. Ensure a private space, to observe confidentiality
- iii. Create a quiet space to keep all noise and back ground noise to a minimum
- iv. If necessary, please let key family members/friends know you should not be interrupted during the hearing.
- v. If the hearing is to be conducted by video, observe what's visible in the background. Try to have a neutral background, if possible.

2 During the hearing –

- i. Breaks /pauses in the hearing will be arranged in advance with the clerk, if for any reason you need to break, tell the clerk and if necessary the hearing will be adjourned.
- ii. Try not to move around during the hearing.
- iii. Keep your microphone on mute until it's your turn to speak
- iv. Don't comment on the case until in the virtual 'panel members room' (*to do so can suggest that the outcome of the hearing of the case has been predetermined before all the evidence has been heard*)
- v. Remember if the hearing is conducted using video, your facial expressions will be visible to appellants,

If an interpreter is required then consideration will be given to listing the appeal separately as such hearings will take much longer to conclude.

Appendix 1

Temporary changes to the School appeals process

The temporary Regulations⁵ will apply to any appeals received after 24 April 2020 and those received prior to the regulations and not yet, the regulations are in force until January 2021 . The regulations permit flexibility for the arrangements of appeals until further notice or the expiration of the regulations.

The fundamental principles governing admission appeals have not changed by the move to virtual hearings. Accordingly, the Panel must ensure compliance with the relevant legislation, ensure procedural fairness and observe the rules of natural justice.

Face-to-face appeal hearings should not take place until the government guidelines on social distancing indicate it is safe to do so. Admission authorities, clerks and panels should comply with the government guidelines applicable at the time of arranging and hearing the appeal.

Accompanying Guidance to the regulations can be found by clicking on the hypertext link below:

<https://www.gov.uk/government/publications/school-admissions-appeals-code/changes-to-the-school-admission-appeals-code-regulations-during-the-coronavirus-outbreak#section-1-the-constitution-of-appeal-panels>

Hearings should be conducted by telephone or video conference where the following criteria are met:-

- *where parties are able to fully present their case,*
- *They have the electronic means to do so,*
- *the panel feels the appeal is capable of being heard fairly and transparently.*

Where the Panel determine that the appeal cannot be heard fairly or transparently by phone or live video link, then the appeals should be conducted on the basis of written submissions and the process is set out in the guidance⁶. The clerk will advise you of this and ensure the relevant process is complied with.

The clerk and Zeenat will advise on the appropriate procedure to be followed.

⁵ The School Admissions (England) (Coronavirus) (Appeal Arrangements) (Amendment) Regulations 2020.

⁶ 'Changes to the admission appeals regulations during the coronavirus outbreak' 24 April 2020 - Appeals decided on the basis of the written submissions only

Where an appellant fails or is unable to take part in the hearing at the arranged time, and it is impractical to offer an alternative date, the appeal may go ahead and be decided on the written information submitted, as set out in the school Appeals Code.

The appellant retains the right to be represented or accompanied by a friend in a virtual appeal hearing.

Appeals decided on the basis of written submissions only

Where telephone or video conference is not possible, appeals conducted entirely on the basis of written submissions are acceptable. A new process will be put into place for appellants who state they wish to appeal in writing for this period, rather than having their hearing by telephone or video conference, in line with the statutory guidance. This will involve the clerk contacting appellants prior to the hearing to enquire if they have any questions for the Presenting Officer on the school case and eliciting a response from the Presenting officer. These questions and responses will form part of the Panel papers. The Panel will also be contacted 7 days in advance of the hearing, to see if they have any questions for the Presenting Officer or the appellant from the paperwork provided by them. If the Panel have any questions these will be put to the appellant. The responses will be coordinated by the clerk and provided to the Panel prior to the hearing.

Timescales for Appeals

The temporary regulations impose new rules relating to appeal timetables. Appeals should be determined as soon as is reasonably practicable and in accordance with the deadlines set by the temporary regulations.

Guidance on the revised process has been prepared for parents and will be published on the LCC' website together with guidance on how to use Skype for Business. Any new timescales will be set out on the LCC website.

The temporary regulations require that appellants must be given at least 14 calendar days' written notice of an appeal hearing (although appellants may waive their right to this in writing).

The Constitution of Appeal Panel

The panel must always be constituted at the outset with 3 (or 5) Panel members, in accordance with the Appeals Code. Where a panel member needs to withdraw part way through the appeals process and it is not reasonably practicable for the panel to be reconstituted in the normal way for a reason related to the incidence or transmission of coronavirus (COVID-19), a panel made up of at least 2 members may continue to consider and determine the appeal.

Where it is the chair who has withdrawn, the clerk must appoint one of the other panel members as chair. Decision making will be by simple majority with the chair having the casting vote.

If more than one member has to withdraw, leaving a panel of fewer than 2 members, new panel members should be appointed so that the panel is constituted in the normal way. Any part-heard appeals will be reheard.

Appeals should be heard as soon as is reasonably practicable.

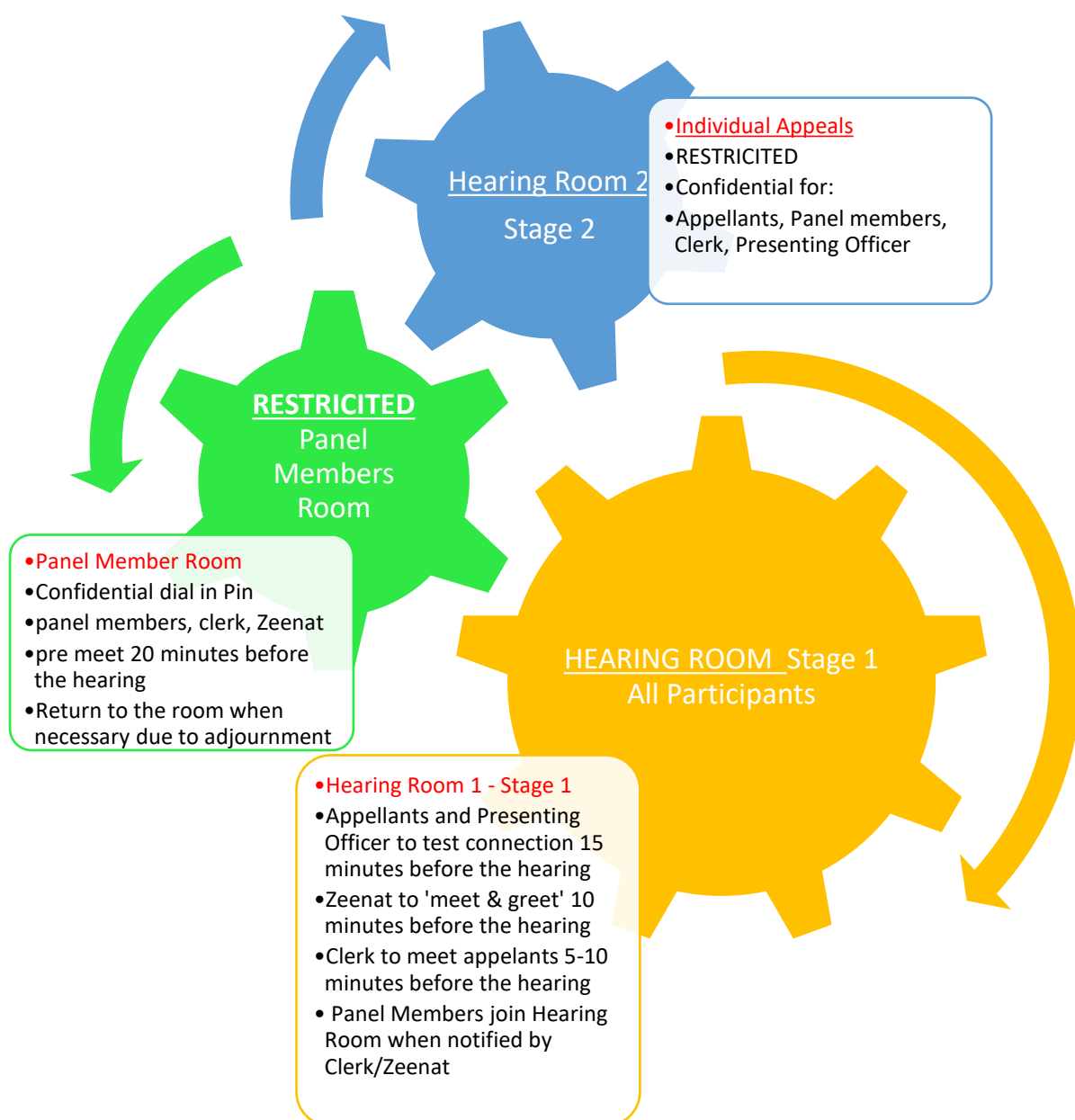
Appeal Outcomes

The temporary regulations mean that decision letters should be sent within 7 calendar days of the hearing or, in the case of an appeal conducted on the basis of written submissions only, within 7 calendar days of the appeal panel making their decision, wherever possible.

Parents retain the right to raise a complaint of maladministration on the part of the appeal panel or in the administration of the appeal to the Local Government and Social Care Ombudsman or the ESFA where applicable.

Appendix 2

The Virtual School Appeals Process



Appendix 3

How to use Skype for Business (SfB)

Skype

- Skype is compatible with all computers and mobile devices operating the Apple, Windows and Android operating systems.
- Arrangements for hearings will be discussed in advance with the clerk.

How to join a virtual hearing using Skype for Business

You will receive an email with a web link to join the hearing see fig1 below. Check your spam folder if you have not received it. If you have not received it by 10 days before the scheduled hearing please contact Zeenat Sankriwala on Zeenat.Sankriwala@leics.gov.uk

To prepare to join an appeal hearing:

1. To Download Skype for Business (SfB) software on the device you'll use to join the hearing. The easiest way to do this is to click on the link sent for the hearing '[Join Skype Meeting](#)' in your email for Zeenat **see figure 1**
2. Follow the instructions to download SfB on to your device **see figure 2**
3. Select '*guest*' and when asked, type in your full name [Mr/Mrs Panel Member] **see figure 3**
4. stay on mute with your video off and microphone on mute until you are asked to speak or turn the video on **figure 4** shows the hearing screen

Downloading skype

Fig1. Email with hearing details



Fig2. Skype for business opening screen

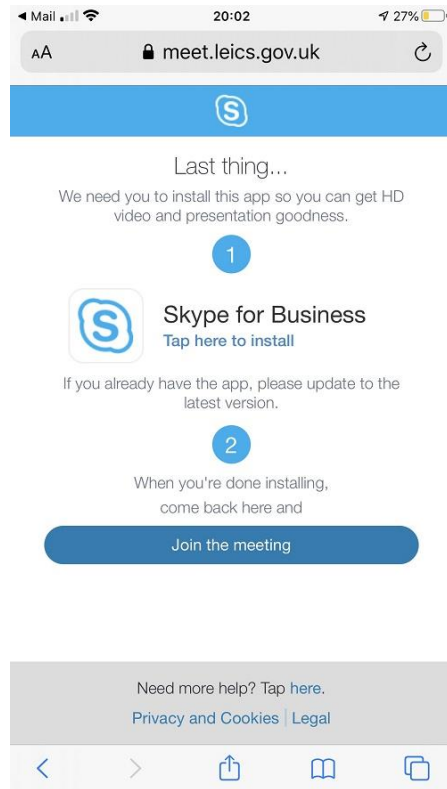


Fig. Login screen – choose guest

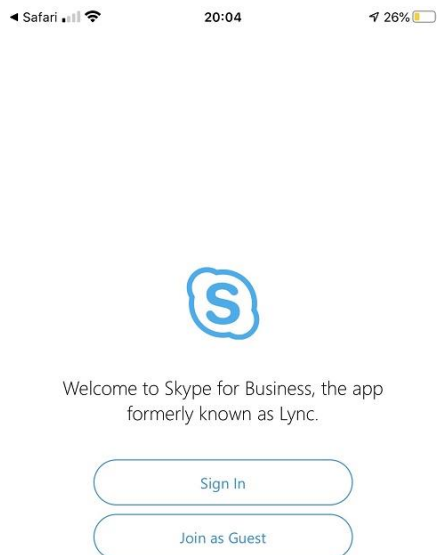
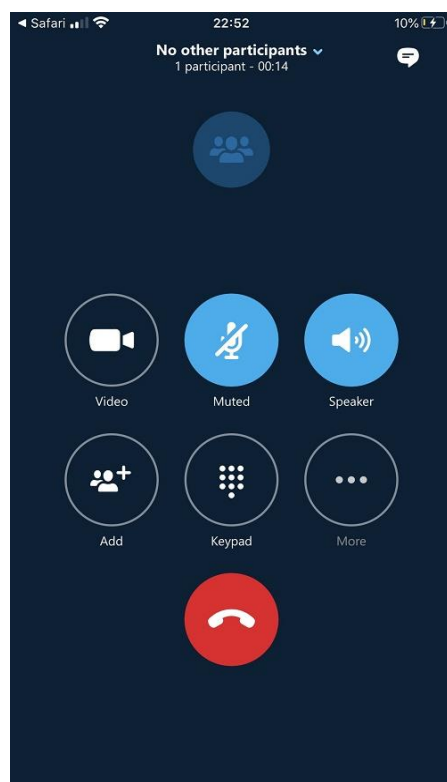


Fig4. Hearing screen



When you have finished the hearing/ meeting make sure you **click on exit**

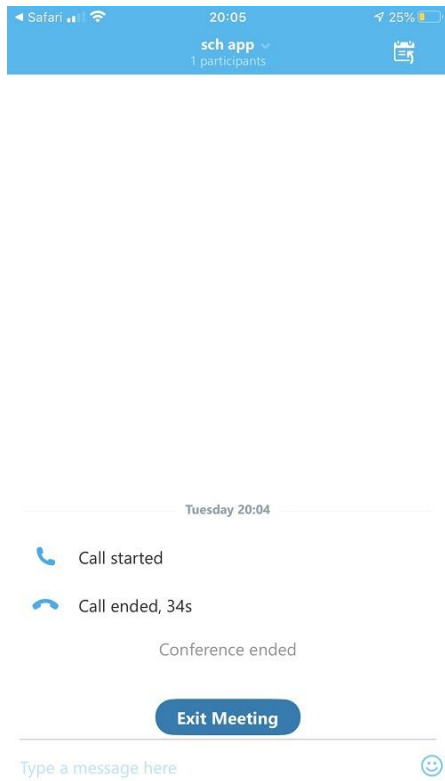


Fig5. Exit Meeting