



**THE VALE OF GLAMORGAN COUNCIL**

**SCHOOL ADMISSION APPEALS PANEL - PROCEDURE**

**This procedure is issued following implementation of the Coronavirus Act 2020 and the Education (Admission Appeals Arrangements) (Wales) (Coronavirus) (Amendment) Regulations 2020 ('the 2020 Regulations')**

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## INTRODUCTION

**This procedure applies to all appeals brought under sections 94 and 95 of the School Standards and Framework Act 1998 and apply to all appeals to which the Education (Admission Appeals Arrangements) (Wales) Regulations 2005 ('the 2005 Regulations) apply which are submitted on or after 4 May 2020 but on or before 31 January 2021, or before 4 May 2020 but where the appeal has not been fully determined on or before that date.**

## OBJECTIVES OF THE APPEAL PROCESS DURING THE CORONAVIRUS (COVID-19) OUTBREAK

- To ensure that Appellants continue to have the right to appeal an admission authority's decision to refuse their child a place at a school during the outbreak;
- To ensure that admission authorities are given as much flexibility as possible to manage appeals in a way that best suits local circumstances, while ensuring parents appealing an admission decision this year are supported and are not disadvantaged by the measures in place to protect public health;
- All appeals which have been lodged, whether in time or not, will be heard and determined by an Appeal Panel as soon as reasonably practicable.

Please see Welsh Government 'Information for admission authorities' here <https://gov.wales/school-admission-appeals-coronavirus-covid-19>.

The amending Regulations can be found here:

<http://www.senedd.assembly.wales/documents/s100830/SL5544%20-%20The%20Education%20Admission%20Appeals%20Arrangements%20Wales%20Coronavirus%20Amendment%20Regulati.pdf>

What the 2020 Regulations mean for School Admission Appeals arrangements:

- **Where it is not 'reasonably practicable' for a local authority to comply with the arrangements for the constitution of Appeal Panels a local authority can where one or more Members of an Appeal Panel has to withdraw from membership of the Panel, the Appeal Panel may continue to consider and determine the appeal provided there remains a Panel of at least two members;**
- **Where the member withdrawing is the Panel Chair, the admission authority must appoint (or arrange for the Clerk to the Appeal Panel to appoint) one of the remaining Members of the Panel as the Chair;**
- **The Local Authority may decide to hold an appeal hearing using remote access provided:**

- **All parties can fully present their case;**
  - **Each person participating has access to an electronic device to permit them to hear and be heard, and/or where it is decided to use a live video link to see and be seen;**
  - **The Panel considers that the appeal is capable of being heard fairly and transparently**
- **Where the above conditions cannot be met, an Appeal Panel may make its decision on the appeal based on the written information submitted provided the Appeal Panel can ensure that the parties are able to fully present their case so that a decision can be made on the appeal which is fair and transparent.**

## **1. MEMBERSHIP OF APPEAL PANELS**

Under the 2005 Regulations, the constitution of the Panel imposes certain restrictions on membership. The 2005 Regulations requires all Panels to include at least one "lay member" and at least one person with experience in education, who is precluded from being a lay member but who are still able to be appointed by the Council and who are not disqualified from membership of an Appeal Panel.

Panels are drawn from a Panel of Members appointed in accordance with the above requirements. Legislation provides for Panels of three or five members, but experience has shown that the most practical number of Members on a Panel is three. This number helps to create an air of informality and makes a series of meetings easier to arrange when the same Members are required to hear many appeals for one school.

During the operation of the 2020 Regulations the rules about what happens if one of the three Panel Members withdraws (either temporarily or permanently) are relaxed to make it permissible for the Panel to continue with and conclude the appeal as a Panel of two members.

## **2. THE CLERK TO THE PANEL**

Each Appeal Panel has the services of a Clerk, whose responsibility it is to ensure that all administrative arrangements for the hearing are made, relevant facts are established, compliance with regulations are maintained, that the appeal hearing is fair and transparent and that proceedings are recorded. The Clerk is to be regarded as an independent source of advice on procedure and evidence. If necessary, the Clerk may intervene on behalf of either the Appellants or the Panel, particularly to ensure that a case is established and that factual matters not in dispute are clearly identified and recorded. It is particularly important for the Clerk to ensure that the 'two-stage' process relating to admission appeals is complied with. Whenever a Panel invites the parties to withdraw whilst considering its decision in private, the Clerk will remain with the Panel, but only for the purpose of offering advice on procedure or the law.

The 2020 regulations do not remove any of the clerking duties for admission appeals and Clerks will continue to carry out a key role.

### 3. ADMISSION APPEALS

#### **3.(i) 'Right of appeal' and Timescales**

In informing Appellants of the admission authority's decision to refuse entry to their preferred school, information will also be provided of the right to appeal the decision, the process for this and an appeal form.

An appeal must be made by notice in writing setting out the grounds on which the appeal is based. **If the Appellant submits additional information on the day of the hearing this may lead to the appeal being adjourned to allow the information to be verified, with the hearing being reconvened on another day. This is to allow the Panel to seek independent corroboration of matters such as medical conditions or the Appellants address.**

During the operation of the 2020 Regulations where the local authority sends an admission decision, the deadline for an appeal specified in that admission decision must be at least 28 days from the date of the notification and expressed by reference to a fixed date or a number of calendar days **(1)**.

In respect of an admission decision sent after 28 February 2020 which contains a deadline for an appeal that does not accord with the above, *or* the admission authority must review the existing deadline for the appeal, *and* where the below **conditions** apply, set a new deadline for the appeal which must be at least 28 days from the date of the notification of the new deadline, and expressed by reference to a fixed date or a number of calendar days:

- The **conditions** are:
  - No appeal has already been lodged in response to the admission decision;
  - The existing deadline refers to school days, or the admission authority otherwise considers that the existing deadline is unclear in all the circumstances; **and**;
  - The existing deadline has not already expired.

Where a new deadline has been set, notification of the new deadline must be sent to the recipient of the original admission decision within 28 days of 4 May 2020 **or** 7 days from the date of an admission decision where **(1)** above is not complied with, whichever is the later.

The notification of the new deadline must be sent by the admission authority where that admission authority sent the relevant admission decision; or the local authority where that authority sent the relevant admission decision on behalf of another admission authority.

#### **3.(ii) Notice of hearing**

Appellants must be given at least 14 days (10 working days) written notice of the date of their appeal hearing. The admission authority may set new or revised reasonable deadlines for-

- An Appellant to submit additional evidence
- The Local Authority Education Admission Authority to submit its evidence and
- The Clerk to send relevant appeal papers to the Appeal Panel and the parties.

#### Other information for Appellants about appeals generally

- Appellants are encouraged to provide as soon as possible any documents, information and evidence they wish to submit to the Panel to support their case, although an Appellant is entitled to submit additional evidence up until midday before the day of their hearing, which will be circulated to the Panel by the Clerk via secure and encrypted email;.
- Appellants are invited to prepare and submit a video presentation (of up to 3 minutes) to the Clerk for the Panel's consideration, if this is preferable. The video to be submitted to the Clerk either at their email address or a mobile telephone number, both of which will be provided to Appellants in the letter giving Notice of the hearing;
- While Appellants can present new information to the Panel during the hearing, if the Panel decides that this information requires independent corroboration an adjournment may be called for and the hearing may be reconvened at a later date;
- Clarity about what information will and will not be provided in the Panel's papers;
- Appellants will be informed of the grounds under which the appeal is to be considered;
- At least 3 working days before the hearing Appellants will be provided with names of the Panel Members and clerk, although this information may be subject to change due to unavoidable circumstances arising;
- Information about any witnesses who have been asked to give evidence at the hearing will also be provided to all parties in advance of the hearing;
- When being informed of the date of the appeal hearing the Clerk will ask Appellants if they have any special requirements in order to participate in the hearing.

#### **3.(iii) Representation at the remote hearing**

Provided an Appellant has access to an electronic device to permit them to hear and be heard, and where using a live video link, see and be seen, Appellants will be able to fully present their case remotely using video or audio-conferencing software facilitated by the Council using the **'GoToMeeting' application**. The Panel must consider in all cases that the parties are able to fully present their case for the appeal to be heard fairly and transparently.

Where these conditions cannot be met the Appeal Panel may make their decision on the appeal based on the written information submitted

The Clerk will contact Appellants by letter and or telephone to confirm with the Appellant whether they are able to participate in and consent to a remote hearing by telephone or video and if necessary explain the arrangements for appeals and

to establish that Appellants have access to the necessary equipment for a telephone or video conference hearing. The appeal will be dealt with by remote hearing if the parties are able to fully present their cases, have access to the electronic means to allow them to hear and be heard, and where a live video link is in use, see and be seen throughout the appeal hearing, and the Panel considers that the appeal is capable of being heard fairly and transparently. Where this is not possible the Appeal Panel may make their decision on the appeal based on the written information submitted, ensuring that the parties are able to fully present their case in this way for the Panel to make a decision on the appeal which is fair and transparent.

Appellants will be informed by the Clerk in advance of the hearing that the following will be necessary for their participation in remote Appeal Panel hearings:

- A charged device with either a good telephone connection/signal or reliable internet access (e.g. smartphone, tablet or computer) and
- A comfortable and where possible quiet space which can be used for the duration of the hearing (which will last approximately 45 minutes).

It is advised that Appellants should use a private and quiet setting where possible, although it is acknowledged that this is not possible in all households and despite this Appellants will continue to be encouraged to participate in their appeals in whatever setting is available to them.

Ahead of the day of the Appeal, the Clerk will contact the Appellant via email and/or text to provide a hyperlink and a telephone number to use to access a videoconference meeting at a date and time previously specified in the letter sent to the Appellant providing Notice of the hearing.

On the day of the hearing, the Appellant(s) will be asked to be ready with their connection device 10 minutes before their allocated time. The Clerk will then place a call to a confirmed contact number to advise the Appellant that the Panel is now ready for their appeal to be heard. The Clerk will also provide either a password for Appellants accessing the hearing via the internet, or a 9-digit Access Code for those dialling in by telephone. The Clerk will where possible provide support to Appellants to access the remote hearing however, the Clerk will not be able to offer technical support to the Appellants in operating their own device. General [technical guidance](#) relating to accessing the videoconference/telephone hearing is enclosed at **Appendix B**.

Following the call made to the Appellant the Clerk will also communicate with the Local Authority Education Officer that they should take necessary steps to join the meeting at this point.

During any Panel hearing the Appellant may be accompanied or represented by a friend, advisor, interpreter/translator, signer or other representative, who can also participate in the remote hearing either with the Appellant or from another location and device, depending on their circumstances and in line with current restrictions. The ethos of creating an informal atmosphere has demonstrated that legal representation is rarely necessary during a hearing, though perfectly acceptable. Should an Appellant intend to be supported by any such individual as listed above, the Clerk to the Panel should be informed in advance. If the

Appellant's representative requires remote access to the hearing separately to the Appellant (which is anticipated in the current restrictions) the Appellant will be required to provide their contact details to the Clerk in good time ahead of the hearing so that the Clerk can make the necessary arrangements for the representative to access the hearing. The Council will provide interpretation or signing facilities if requested to do so in advance of the hearing.

### **3.(iv) Evidence and witnesses at the remote hearing**

The following points are important for Appellants and presenting officers to note

- Appellants and presenting officers are entitled to decide how to organise their remote presentation to the Panel;
- It is unlikely to be necessary for witnesses to attend;
- Panel Members may with warning to Appellants ask for further information,
- If a child/young person wishes to access the hearing remotely, then the Appellant must notify the Clerk in advance so that appropriate arrangements can be made;
- At least 7 days (5 working days) before the hearing (unless the Appellants have waived their right to a period of 14 days' notice of the appeal, or the Admission Authority has set a new or revised deadline in which case parents will be notified of the revised deadline) the admission authority must supply to the Clerk, who will serve on the Appellants, the following information:
  - i) the application of the Authority's admissions policy to the case in question, with any relevant background information;
  - ii) a written statement summarising the reasons for the decision;
  - iii) copies of any information or documents which are to be put to the Panel at the hearing, including anything which has been submitted to the Appellants.

The above will be sent by recorded Royal Mail delivery in compliance with General Data Protection Regulation (GDPR) requirements.

## **4. THE APPEAL HEARING DURING THE CORONAVIRUS (COVID-19) OUTBREAK**

The 2020 regulations relax some of the current requirements however the Council will continue to maintain its obligations around natural justice and procedural fairness.

### **4.(i) Order of the hearing**

During any remote hearing the order of the hearing will be maintained as follows:

The Clerk will start the GoToMeeting Platform and invite the relevant parties in the following order

- The Panel Members (who will upon joining the meeting agree who will sit as Chairman)
- The Appellant's interpreter / signer (if applicable)
- The Appellant/s
- The Appellant's representative (if applicable)
- The Local Authority Education Officer

The Chairman will then lead the hearing through the following stages

#### Stage 1 (The Factual Stage)

- The case for the admissions authority (presented by the Local Authority Education officer)
- Questioning by the Appellants
- Questioning by the Panel

The Clerk will then disconnect the parties from the hearing whilst the Panel deliberates its decision on Stage 1 of the case.

(If 'prejudice' is not proven, the hearing (in the case of a single appeal) must end at this stage and the Appellant will be told that their appeal has been successful)

If prejudice is proven at stage 1 (meaning that the Local Authority's case has been proven and that prejudice has been found) then the hearing will proceed to Stage 2 of the procedure. The Clerk will then contact the Appellant and Local Authority Education Officer (in that order) to reconnect to the hearing so that the Chairman may give the Panel's decision for stage 1.

#### Stage 2 (the balancing stage)

- The case for the Appellant
- Questioning by the Panel
- Questioning by the Local Authority Education Officer
- Summing up by the Local Authority Education Officer
- Summing up by the Appellant

During any hearing of the appeal the Panel may adjourn any case at any time during the proceedings to verify/receive further evidence. In this circumstance the Clerk will disconnect the Appellant and Local Authority Education Officer from the call/video conference and communicate with both parties separately regarding when the hearing is to be reconvened.

During any remote hearing held during the outbreak where a Panel has been reduced from 3 Members whether temporarily or permanently the Panel can and will continue with and conclude the appeal as a Panel of two. In such instances

where a consensus to a decision cannot be reached the Chairman of the Panel will have a casting vote.

**Further information relating to the two stage process can be found in this document at section 6.**

**4.(ii) Appeals hearings to be determined by written submissions only**

Where a telephone or video conference hearing is not reasonably practicable, either because the parties are not able to fully present their case, participants have no access to an electronic device to hear and be heard and/or see and be seen, and the Panel considers that the appeal is not capable of being heard fairly and transparently, the Panel will decide the Appellant's case based on the written information submitted.

Appellants will be asked to submit to the Clerk written submissions in support of their appeal and any further evidence which they feel may support or substantiate the grounds for their appeal. Any submissions provided to the Clerk by the date specified in the letter providing Notice of the hearing, will be included in the hearing papers (that are sent to both the Appellants and the Independent Panel Members). Please note that if they choose to, Appellants will be able to provide further submissions for the Panel's consideration up until midday on the day before their appeal is due to be considered. These will be circulated by the Clerk to the Panel Members via secure encrypted email.

**4.(iii) Matters to Be Considered in respect of single and grouped appeals**

The matters to be considered by the Appeal Panel shall include:

- (i) Admission Number
- (ii) Infant Class Size Regulations
- (iii) Admission Policy and Arrangements
- (iv) School Capacity Calculation
- (v) School Building Layout and Resources
- (vi) Parental Preference.

Local Authorities are required by law to comply with parental preference except in certain limited circumstances, namely:

- where to admit the child would prejudice the provision of efficient education or the efficient use of resources. Prejudice may also arise by reason of measures required to be taken to comply with the limit on infant class sizes (this is known as class size prejudice);
- where a state maintained boarding school has set separate admission numbers for day pupils and boarding pupils and has more applicants for

one or other category than places available, even though places may be available in the other category;

- where a sixth form is wholly selective by high ability or by aptitude and the admission of the pupil would be incompatible with such selection under the admission arrangements;
- where the child has been permanently excluded from two or more schools and at least one of the exclusions took place within the last two years. The requirement to comply with parental preference is dis-applied for a period of two years after the second exclusion. This does not apply to children below compulsory school age or to pupils who were reinstated after exclusion. A permanent exclusion is regarded as taking effect from the first school day the headteacher has told the pupil not to attend the school.

## 5. INFANT CLASS SIZE

- Statutory limits on class sizes provide that, subject to certain limited exceptions, infant classes (Reception, Year 1 and Year 2) may not contain more than 30 pupils. The limited exceptions are described in detail in paragraph 3.48 of the [School Admissions Code](https://gov.wales/sites/default/files/publications/2018-03/school-admission-Appeals-code.pdf) (<https://gov.wales/sites/default/files/publications/2018-03/school-admission-Appeals-code.pdf>).
- The Local Authority can refuse to admit a child to a school where to do so would cause class size prejudice to the efficient education or the efficient use of resources because of the measures that would be needed to comply with the duty to limit the size of infant classes.
- However, in relation to the Reception year such prejudice cannot be said to arise unless the school admission number would be exceeded.
- In relation to Years 1 and 2 admission authorities should not normally refuse admission on the grounds of class size prejudice unless the school's admission number would be exceeded.
- The scope of an Admission Appeal Panel to uphold an appeal against non-admission is limited where the admission authority has refused admission on class size prejudice grounds. For this category of appeal, there will no longer be a two-stage balancing process in determining appeals.
- This category of appeal can only be upheld if the Panel is satisfied that one of the following criteria apply:
  - **Ground A** – the child would have been offered a place if the school admission arrangements had complied with the requirements of the [School Admissions Code](https://gov.wales/sites/default/files/publications/2018-03/school-admission-Appeals-code.pdf) (<https://gov.wales/sites/default/files/publications/2018-03/school-admission-Appeals-code.pdf>) and/or Part 3 of the School Standards and Framework Act 1998;

- **Ground B** – the child would have been offered a place if compliant admission arrangements had been properly implemented;
- **Ground C** – the decision was not one which a reasonable admission authority would have made in the circumstances of the case.

## **6. REACHING DECISIONS ON APPEALS, OTHER THAN INFANT CLASS SIZE APPEALS – ‘NORMAL PREJUDICE’ APPEALS**

Set out below is an explanation of the procedure which will be adopted in respect of the Two-stage process and the practical arrangements which will apply during the outbreak.

### **What the Panel must consider in any single appeal:**

**Stage 1 - the factual stage** for the Panel to:

**a)** consider whether the published admission arrangements were correctly and impartially applied

The Panel must uphold the appeal at the first stage where it does not consider that the admissions arrangements for the school comply with the requirements of the law and guidance issued, and, had the admissions authority complied with the legislation and guidance the child would have been offered a place

**b)** consider whether compliant admission arrangements and impartially applied in the case(s) in question.

The Panel must uphold the appeal at the first stage if it is not satisfied at the first stage that where there would be prejudice if the child or young person were admitted to the school. Where there is only a single appeal for the school, the Panel must allow the appeal and not go on to the second stage. For multiple appeals for the same school decide as a matter of fact whether 'prejudice' would arise were the child or young person to be admitted.

The Panel must immediately refer to the local authority any aspects of the admission arrangements it identifies as unlawful.

**Stage 2 - A balancing stage:** for the Panel to exercise its discretion, balancing the degree of prejudice and the weight of the Appellants case, before arriving a decision.

Where the Panel determines that to admit would result in 'prejudice', the Panel must consider the second stage and consider the Appellant's reasons for preferring the school, including, what that school can offer the child that the allocated school or other schools cannot. The Panel will need to consider the wider consequences for the admissions authority in complying with the Appellant's wishes and how serious those consequences would be for both the authority and the other children/young people.

Appellants should, by way of verbal and/or written representations and any available substantiating evidence aim to demonstrate to the Panel that their

child's individual circumstances outweigh the degree of prejudice that would be caused to the school by admitting any additional pupils to the Year Group in question, and that the school in question is the only school that will be able to fulfil their child's educational needs.

It is open to the admissions authority to present as part of its evidence to the Panel the fact that the child or young person in question has been offered a place at an alternative school. This may be of relevance where the question of distance between home and school is being discussed. Equally, it is open to the Appellant to state any reasons why an alternative school would be unsuitable or less suitable.

### **6.(i) Grouped Appeals**

Where multiple appeals have been received in relation to the same school and Year Group, while each appeal will be heard individually, no determination of any individual Appellant's case will be made before the cases of all Appellants for the same school and Year Group have been heard.

If more than one appeal relates to a child in the same Year Group, then the appeals will be grouped by the Year Groups.

As with other appeals, multiple appeals are heard in two stages.

### **How will grouped appeals be determined during the operation of the 2020 Regulations**

Appellants will be given the opportunity to connect remotely to the hearing in respect of their own appeal, and both stages will be heard individually, with Appellants having been given notice of the date and time when their appeals are to be considered by the Panel (with instructions on how they can access the hearing remotely). A presenting Officer from the Local Authority will also have accessed the hearing remotely in order to put forward the Local Authority's case.

The Chairman will explain, at the start of the hearing, the procedure to be followed and inform Parents of the independent nature of the Appeal Panel and that its findings are binding on the Authority.

### **Stage 1 ('the factual stage')**

Appellants and Panel Members will have received copies of the Local Authority's submissions and documentation in advance, which the Local Authority's Officer will present during stage 1 of the hearing. Appellants will be allowed to question the presenting Officer in relation to the Local Authority's case, but should note that the focus of the factual stage of the appeal at stage 1 relates solely to the Local Authority's case and not the Appellants' personal circumstances.

At stage 1 the Panel must assess:

- Whether admitting all the Appellants would cause prejudice to efficient education or the efficient use of resources, and
- Whether each child or young person would have been offered a place if the admission arrangements had been properly implemented.

The Panel will adjourn to deliberate privately and decide the outcome for stage 1 of each appeal, Appellants and the Local Authority Officer will be asked to disconnect from the hearing while deliberation is ongoing.

### Panels findings following deliberation at Stage 1

As is the case with single appeals, if the Panel finds that the Appellant would have been offered a place if admission arrangements had been properly applied, their appeal must be upheld at stage 1 and not proceed to stage 2.

If the Panel finds that the admission of one or more Appellants would not cause prejudice to the school, and that further children or young people could therefore be admitted, it must then determine how many could be admitted and allow appeals up to that number once all appeals have been heard.

In considering which appeals to allow, the Panel must first admit those who should have been admitted if the admission arrangements had been properly applied, and then consider the other factors in the individual Appellant's case so that any compelling reasons for admission which the Appellant presents can be considered.

If, however, prejudice is found, the Panel must move to the second stage of the appeal, deciding whether any of the individual Appellant cases outweigh the prejudice.

The Clerk will contact both the Appellant and Local Authority Officer to advise that they should re-connect to the hearing to hear the outcome of the first stage and, if prejudice has been found, proceed to the second stage.

### **Stage 2 (“the balancing stage”)**

Appellants will be able to make oral representations to the Panel in respect of stage 2 of their appeal.

Appellants are reminded that it is at this stage that the opportunity will arise to provide the context regarding their personal circumstances, and any information or documentation in support of this which must be submitted in advance of the hearing.

## **7. REACHING A DECISION**

- Appeal Panels must either uphold or reject an appeal and must not uphold an appeal subject to specified conditions.
- The decisions of Appeal Panels are binding on the Authority. Should a decision of a Panel not be unanimous, then the appeal under consideration should be decided by a simple majority of the votes cast. Where there are

equal number of votes i.e. where the Panel initially comprises three members, but one member drops out, the Panel chair has a second or casting vote.

## **8. RECORD OF PROCEEDINGS**

The Clerk to the Appeal Panel will keep brief notes of the proceedings, attendance, voting and decisions reached. These notes will not constitute a public document but they will assist the Clerk to formulate the decision letter that Appellants will receive following the hearing.

## **9. SERVICE OF DOCUMENTS TO APPELLANTS**

Documents required to be served on an Appellant will be sent, by Royal Mail recorded delivery or electronically where possible (where confidential receipt can be ensured in each case). Where this is not possible documents will be delivered to the address provided to the Authority when submitting a written notice of appeal, taking into account any health protection issues

## **10. AFTER THE APPEAL HEARING**

### **NOTIFICATION OF THE APPEAL PANEL'S DECISION TO APPELLANTS**

The decision of the Appeal Panel and the grounds on which it is made will be communicated in writing to the Appellant and the admissions authority after the appeal hearing, and within 7 days of the appeal hearing, wherever possible.

## **11. COMPLAINTS**

### **11.(i) Complaints to the Public Services Ombudsman**

Appellants are advised that the Panel's decision is legally binding, however, the Public Services Ombudsman can investigate written complaints about maladministration on the part of an Admission Appeal Panel.

Maladministration covers issues such as a failure to act independently and fairly, rather than complaints where a person simply feels that the decision taken is wrong.

The Ombudsman cannot however, comment on or overturn the Panel's original decision.

The address of the Public Services Ombudsman for Wales is:

1 Ffordd yr Hen Gae

Pencoed

CF35 5LJ

Telephone no.: (01656) 641150

### **11.(ii) Complaints to the Welsh Ministers**

The Welsh Ministers cannot review or overturn decisions of individual independent Appeal Panels but can consider whether to exercise their powers of intervention if:

- the Panel was correctly constituted by the admission authority, and
- the admission authority has acted reasonably in exercising functions in respect of the appeal process or has failed to discharge any legal duty in relation to that process, e.g., in constituting the Panel or acting in breach of the mandatory provision of this Code.

### **11.(iii) Judicial Review**

An Appeal Panel's decision can only be overturned by the courts where the Appellants or admission authority are successful in applying for Judicial Review of that decision.

(With regard to Section 11 above See [School Admissions Appeals Code \[https://gov.wales/sites/default/files/publications/2018-03/school-admission-Appeals-code.pdf\]](https://gov.wales/sites/default/files/publications/2018-03/school-admission-Appeals-code.pdf) for further information)

### **VALE OF GLAMORGAN SCHOOL ADMISSION APPEALS: GUIDANCE FOR REMOTE PARTICIPATION IN HEARINGS**

The aim of this guidance is to assist all remote participants in ensuring that School Admission Appeal hearings run as easily and as smoothly as possible. Specific [technical guidance](#) regarding the use of **GoToMeeting** on various types of devices can be found at Appendix B.

Some of this guidance will apply to all participants, while some will apply to specific participants. This will be clearly indicated throughout the guidance.

#### **ALL PARTICIPANTS**

- Before the date of the hearing, visit <https://support.goto.com/meeting/system-check> on the device you plan to use. This will confirm whether your device is fully compatible with the system or not. If the tool advises your internet-enabled device won't support GoToMeeting, you will be able to dial in via a standard telephone call (see Section [iii] of the attached technological guidance at Appendix B).
- If multiple devices are available to you (eg a phone and a laptop), we recommend using the device with the biggest screen, as this will be the one that most likely gives you an option to see all participants, rather than being restricted to only viewing the participant who is currently speaking.
- Take some time before the date of the hearing to familiarise yourself with where the microphone and headphone plug-in is on your device, as knowing where to find these will be helpful if you are required to speak more loudly and/or hear more clearly. The best audio quality will likely be achieved by plugging a separate microphone into the device – most modern headphone sets include a microphone.
- Make sure before the hearing starts that your equipment is fully charged, or has the capacity to charge without impeding your audio/visual settings while the hearing is ongoing. Keeping your device plugged in to a power source if possible will give you confidence that the battery will last for the duration of the hearing.
- Set up in a comfortable position. Appellants are allocated approximately 45 minutes for a hearing and Panel Members will be sitting for hours over multiple days. Please take some time to consider where you'll be able to make yourself comfortable so that you can focus on the discussion at hand.
- If participating with video, where possible it is best to try and find a space with a plain background. Other participants may find it distracting to see photos or shelves full of books or ornaments in the background. Also

consider lighting – if a light source is behind you in the shot your face will likely end up looking darker on screen. Equally, too strong a light in front of you might have a ‘bleaching’ effect. Most devices will allow you to access your camera ahead of the hearing so you can identify where best to position yourself.

- If participating with video, aim to position your device appropriately so that your head and shoulders are in the shot (similar to a passport photo).
- Make sure that you can easily view any necessary documentation. You will have paper copies sent to you in the post, but if you choose to have these sent to you electronically please ensure you are set up so that you can see both the documents and the videoconference easily.
- If referring to a document during the hearing, please be specific regarding which Appendix it is in as well as the page number and please allow time for others to locate the same document.
- Have a pen and paper ready to use. Conversation won't flow as naturally as it would with people in the room together, and the Chairman will be moderating the order in which participants speak. You may therefore find it helpful to take notes of any points you would like to make so you can refer back to them when it is your turn to speak.
- Before the hearing starts, please ensure that any other nearby electronic devices are set to silent, or mute notifications on the device you're using. If you experience interference during the call, this could be caused by other devices nearby so you may want to turn off any other devices or remove them from the same room as you.
- If you are not currently speaking, please mute your microphone. This will help to reduce the level of disruptive and distracting background noise and assist all participants in hearing one another as clearly as possible. Instructions regarding how to mute and un-mute your microphone can be found in the enclosed [technical guidance](#).
- If you wish to speak, please indicate this via the Chat function on GoToMeeting and wait until the Chairman asks you to speak. If a question is asked of one participant directly, that participant will be the first person afforded an opportunity to respond. **It is crucial that all participants respect this process and listen to the Chairman to ensure everyone has a fair opportunity to make their points without being talked over.** If any participant repeatedly disregards this process and talks over other participants without waiting for the Chairman to confirm it is their turn, the Clerk will be able to mute their microphone.
- When speaking, don't shout. The Clerk will advise if your volume of speech is too low, it will usually require participants to either move closer to their microphone or to adjust their microphone/volume settings.

- Please try and remember that not all participants will have the same visual access to the hearing. There is an option to dial in on a telephone call rather than use a screen, and not all participants will have access to a camera. It's therefore important that all participants communicate as much as possible verbally, as not everyone will be able to see gestures or facial expressions. The Clerk will confirm at the start of the hearing which participants have screen access and whether any aren't visible on camera.
- If the connection becomes too slow, the Clerk will ask all participants to turn their cameras off for a short amount of time to allow GoToMeeting time to speed the connection up again. If this problem recurs, the Clerk will ask all participants to turn their cameras off, and only turn them on when it is their turn to speak. Instructions regarding how to turn your camera on and off can be found in the enclosed [technical guidance](#).

### **PANEL MEMBERS**

- Please ensure that you are set up in a space that is private and where you will not be interrupted or overheard while appeals are ongoing as sensitive information relating to multiple Appellants will be discussed.
- Appeal hearings will commence at 9.30am, however the Clerk will ensure that the 'meeting' has started and is available to be joined from 9.00am onwards. We ask that you take steps to join the meeting (see [technical guidance](#) for instructions) by 9.20am, which will allow the Clerk time to assist with any technical difficulties if needed.

### **THE CHAIRMAN**

A revised Chairman's introduction script has been prepared and will be circulated to all Panel Members ahead of hearings, however a few points to remember:

- Once all participants have joined the meeting, check that all are comfortably set up and ready to participate, and have easy access to the documentation.
- As per usual arrangements, all parties will need to be introduced to the Appellant. It's a good idea to arrange between yourself, the Panel Members and the Clerk(s) which order you'll go in *before* the Education Authority Officer or the Appellants join the hearing.
- Make sure all participants are aware of how the discussion will be moderated. It will be difficult to moderate the flow of the discussion completely, and it is therefore a good idea to try and keep discussion structured on a topic-by-topic basis as much as possible:

1. After the Appellant has made their initial representation to the Panel, the Chairman should ask Panel Members whether they have any comments in response to the Appellant's representation, or have any questions for the Appellant, and to indicate that they wish to speak by using the chat function on GoToMeeting. The Chairman must use their discretion in choosing who speaks next.
2. After a Panel Member has raised a matter/topic or asked a question to the Appellant, the Appellant should be the first person offered the opportunity to respond.
3. After the Appellant has had the opportunity to respond to the Panel Member, Panel Members should be asked again to indicate whether they wish to speak in response to the same matter.

*The above process should be repeated until Panel Members have no further comments/questions on this particular topic.*

4. Once all Panel Members who wish to speak on the matter under discussion have spoken, ask the Appellant if they have anything else to add regarding this topic but remind them that they will have an opportunity to sum up at the end, and encourage them to make notes if they think of anything further they'd like to bring up.
  5. After Panel Members and the Appellant have all said as much as they'd like to currently on the topic raised by the first Panel Member, the Chairman should **repeat steps (1) – (4)** [ensuring that they as Chairman also have the opportunity to raise matters with the Appellant] until Panel Members have no further topics to raise with or questions to ask of the Appellant.
  6. At any point in this process, if the Local Authority Education Officer or Clerk wish to ask a supplementary question or offer advice, they will communicate this with the Chairman via the "Chat" function of GoToMeeting. The Local Authority Education Officer should of course be afforded first opportunity to respond if a question is aimed at them rather than the Appellant.
  7. The Chairman should conclude matters by asking the Local Authority Education Officer and then the Appellant to sum up, ensuring there is nothing else that the Appellant wishes to be discussed that hasn't been discussed already.
- It's a good idea to routinely check in with the Clerk as to whether all participants are still connected and haven't been 'lost'. Should the Clerk confirm that a participant is having technical difficulties, the Chairman should advise all participants that a short adjournment is necessary and ask all to mute their microphones until the hearing can resume.

## **APPELLANTS**

Where possible it is best to be set up in a quiet, private space where you are unlikely to be interrupted for the duration of the appeal. For instance, if you're in your kitchen and family members are wondering in and out to make food or drinks, that could be distracting to both yourself and other participants. However, we acknowledge that this is not possible in every household.



**TECHNICAL GUIDANCE FOR ACCESSING AND USING THE GOTOMEETING APPLICATION**

*The Clerk will be available to provide assistance with the following steps on the day of the Appeal, however please note that the Clerk will not be able to assist you with technical matters relating to your specific device.*

*To check whether your device is compatible with **GoToMeeting**, please use your chosen device and access <https://support.goto.com/meeting/system-check>. If your device is not compatible, please refer to Section (iii) of this document.*

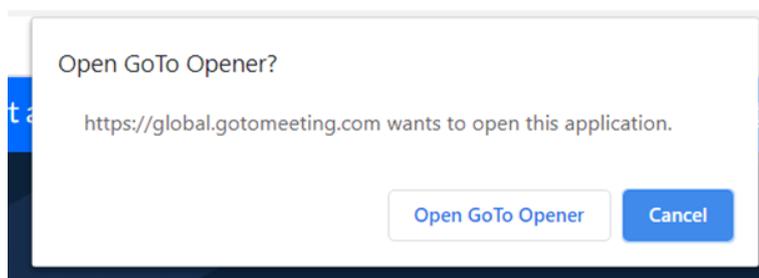
**SECTION (i) - Accessing GoToMeeting on a Computer or Laptop**

1. The Clerk will have sent you via email, in advance of the Appeals, containing the necessary joining information for each session of Hearings (a session being the morning or the afternoon of a given day of appeals). The joining information will include URL link, 9-digit Access Code and password for a GoToMeeting ‘meeting’ for each session. For example:

Whitmore High School Appeals - Monday 1st June, 2020			
AM (9.30 – 12.45)		PM (13.15 – 16.30)	
Link	<a href="https://global.gotomeeting.com/join/123456789">https://global.gotomeeting.com/join/123456789</a>	Link	<a href="https://global.gotomeeting.com/join/987654321">https://global.gotomeeting.com/join/987654321</a>
Access Code	345 – 878 - 274	Access Code	867 – 287 - 835
Password	WHS0106AM	Password	WHS0106PM

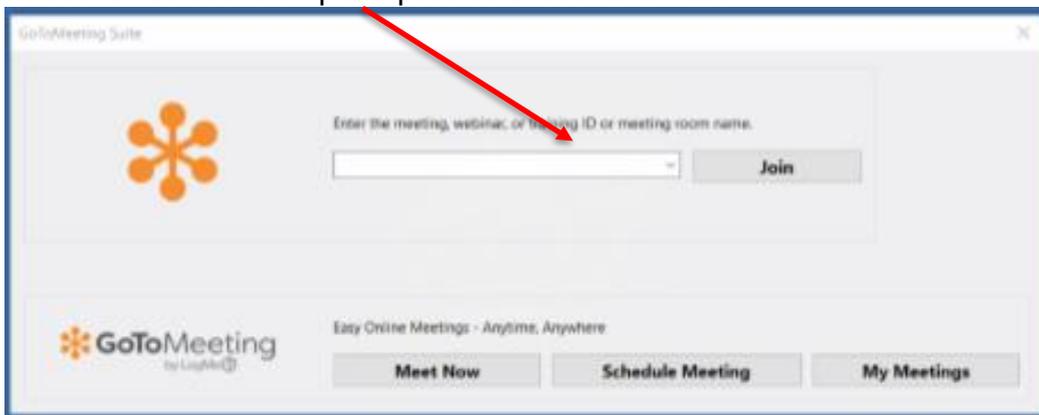
2. Click the link, or enter it manually into your internet browser ideally in good time before Hearings commence. Morning sessions will begin at 9.30am, the Clerk will ‘start’ the meeting so that Panel Members can join from 9.00am. Afternoon sessions will begin after the lunch break at 13.15pm, the Clerk will ‘start’ the meeting so that Panel Members can join from 12.45pm. Appellants will be advised on an individual basis when they should join for their Hearing.

3. Your computer/laptop will then prompt you to run *GoToOpener* software, it’ll look similar to this:

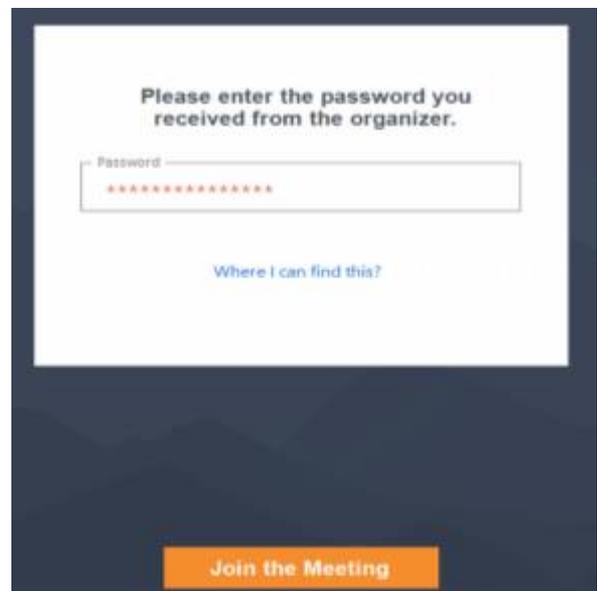


4. Confirm that you are happy for the software to run, and it will start downloading and installing. This shouldn't take more than a minute or so. *Please note you will be able to uninstall any software downloaded once the Hearing has finished.*

**Alternatively** you can visit <https://global.gotomeeting.com/install> ahead of your Hearing date and install the app in readiness for the Clerk's phone call. Once it's time for you to join the Hearing, open up the app, type the previously provided 9-digit Access Code into the space provided and click Join.



5. You will be prompted to enter a password, as seen here. The password will have been sent to you by the Clerk with the other joining information (see step [1]). Once you have done this please click 'join meeting'.

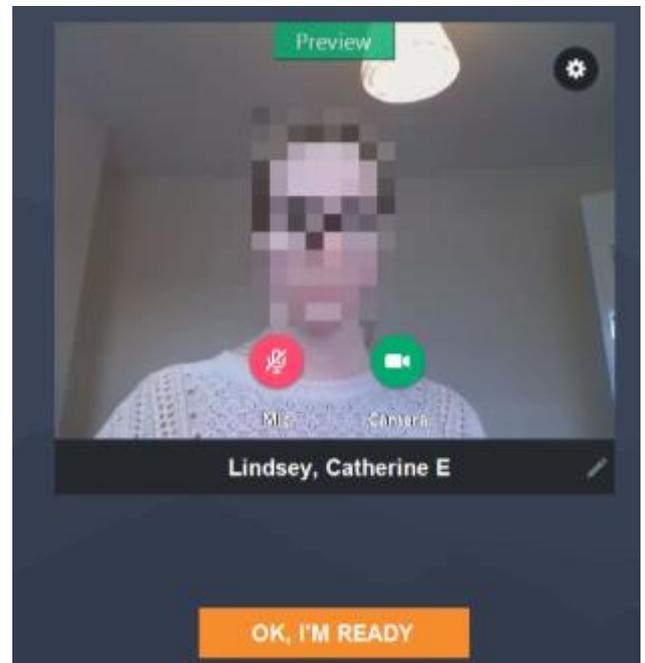


6. During this time, GoToMeeting will have opened up as an app and will be accessible in your taskbar (or dock if using an Apple device), as seen below. If you find yourself having lost the GoToMeeting screen, as first port of call check your taskbar/dock and see if you can click back on to it from there.

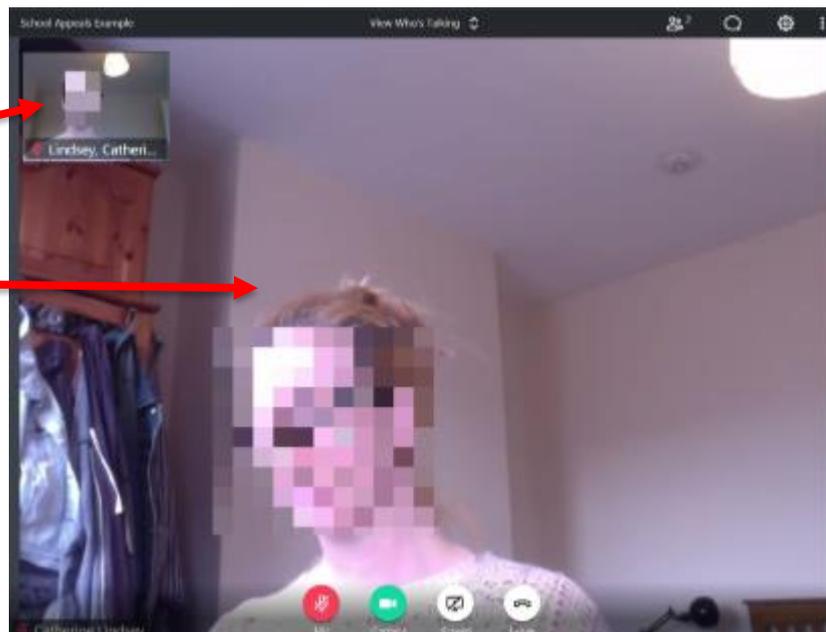


7. You will be asked to select your audio options (please click 'Computer' and then 'Save and Continue') and confirm your microphone and speaker settings. Generally GoToMeeting will automatically pick the best options available, however if you have other options you'd prefer to use please indicate your preference using the dropdown menus, and click 'Save and Continue' once happy.

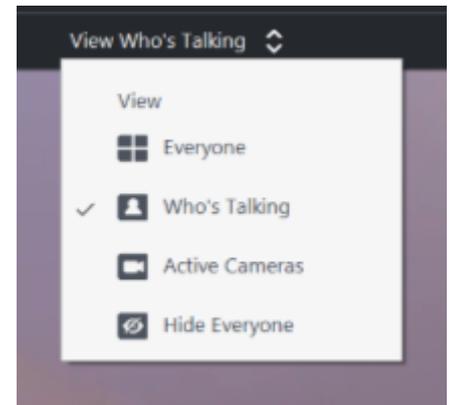
8. GoToMeeting will then give a preview of how you will appear on other participants' screens once you have joined. To turn you camera on/off before joining the Hearing, please click the icon labelled 'Camera' until happy. Once ready to join the Hearing, please click 'OK, I'm ready' to continue. *You are not obliged to use your camera and may participate in the Hearing via audio alone. However, we would advise that Hearings work best when all participants are able to see one another, if possible.*



9. Once connected, this is how your screen will be set out. Your own camera will display in a box with your name displayed, and other participants filling the rest of the screen. GoToMeeting may prompt you with some introductory instructions regarding meeting controls. Feel free to read or skip these – all important functions will be covered below.



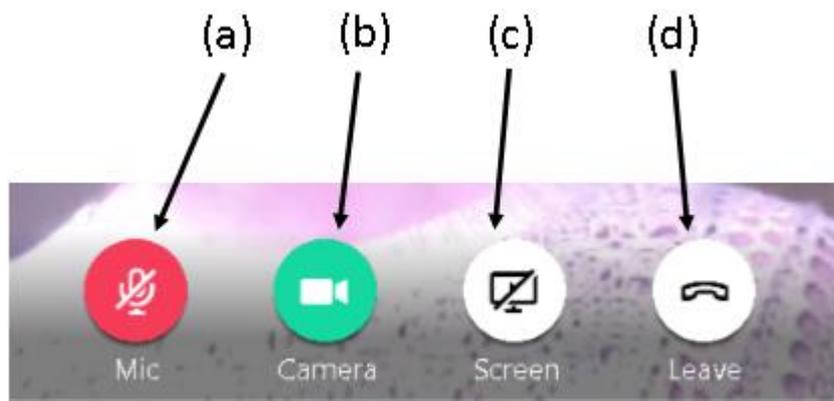
**10.** Depending on your preference, you can use the dropdown menu 'View Who's Talking' in the top centre of your screen to decide whether you would like to view all participants simultaneously ('Everyone'), or for the screen to swap to display the participant who is currently speaking ('Who's Talking'). *Please note that for any participants who are not using their cameras, their initials will be what's displayed to other participants.*



**11.** The main meeting controls that participants should be aware of are as follows:

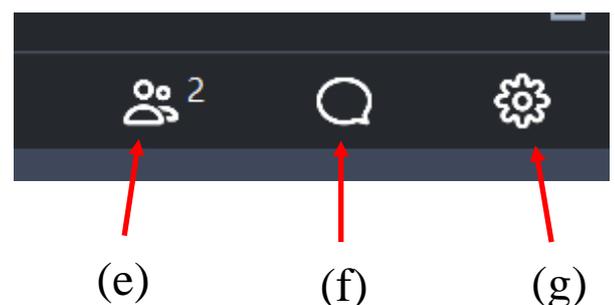
- (a) Microphone – click this icon to mute/unmute yourself in line with the participation guidance. You are muted when the icon shows as red with a diagonal line through it (as shown), and unmuted when the icon is green.
- (b) Camera – click this icon to share/disable your camera.
- (c) Share Screen – please ignore this function and do not click the icon.
- (d) Leave meeting – please only click this icon once the Chairman has confirmed that the Hearing has concluded.

*These icons will display in the bottom centre of your screen. Should they vanish, please hover your mouse over this area and they'll reappear.*



**12.** Clicking the icons in the top right corner of your screen will let you access the following.

- (e) Attendees – a list of currently connected participants.
- (f) Chat – allows you to send direct instant messages to all participants. Please only use as instructed in the participation guidance.
- (g) Settings – will allow you to adjust various settings.



**13.** Once each session of Hearings has concluded, Panel Members should leave the meeting by clicking icon (d) in the main controls.

## SECTION (ii) - Accessing GoToMeeting on a Mobile Device

1. The Clerk will have sent you via email, in advance of the Appeals, containing the necessary joining information for each session of Hearings (a session being the morning or the afternoon of a given day of appeals). The joining information will include URL link, 9-digit Access Code and password for a GoToMeeting 'meeting' for each session. For example:

Whitmore High School Appeals - Monday 1st June, 2020			
AM (9.30 – 12.45)		PM (13.15 – 16.30)	
Link	<a href="https://global.gotomeeting.com/join/123456789">https://global.gotomeeting.com/join/123456789</a>	Link	<a href="https://global.gotomeeting.com/join/987654321">https://global.gotomeeting.com/join/987654321</a>
Access Code	345 – 878 - 274	Access Code	867 – 287 - 835
Password	WHS0106AM	Password	WHS0106PM

2. Click the link when you wish to join the session, ideally in good time before Hearings commence. Morning sessions will begin at 9.30am, the Clerk will 'start' the meeting so that Panel Members can join from 9.00am. Afternoon sessions will begin after the lunch break at 13.15pm, the Clerk will 'start' the meeting so that Panel Members can join from 12.45pm. Appellants will be advised on an individual basis when they should join for their Hearing.

3. After the clicking the link, your mobile device will prompt you to download the GoToMeeting app. Please do this as you would with other apps, and once the app has opened, enter the 9-digit Access Code into the space provided and click 'Join'

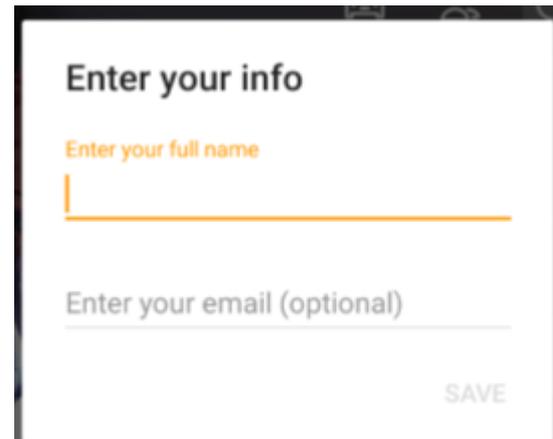
**Alternatively** you can download the app ahead of your hearing date. Search for GoToMeeting on your device's app store (Google Play for Android or App Store for iOS) and download the app. Once you have received the call from the Clerk to join the hearing, please open the app and proceed to enter the Access Code into the space provided as above.

4. You will be prompted to enter a password, as seen here. Once you have done this please click 'Join'.

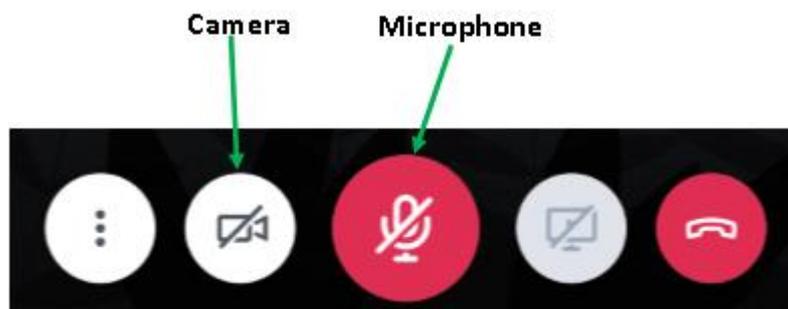
The password will have been sent to you by the Clerk with the other joining information (see step [1]). Once you have done this please click 'join meeting'.

5. When prompted please allow GoToMeeting access to your mobile device's audio. *GoToMeeting may refer to 'recording' your audio—please note that the Hearing **will not be recorded**.*

6. When prompted under 'Enter your info' please enter your full name and click 'Save'. Whatever you enter here will be how your name is displayed to all other participants.



7. Once you have joined the meeting, your camera and microphone will not be turned on automatically. You will need to click the 'Camera' and 'Microphone' icons at the bottom of the screen. If these icons are not showing straight away, tap the screen once and the main meeting control icons should appear.



8. Before your camera shares with other participants you will be shown a preview of the display from your camera—please click 'Share' to begin sharing with other participants.

9. Once connected, this is how your screen will be set out. Your own camera will display in a small isolated box, with other participants in the main body of the screen. Depending on the size/make of your device, you will either be able to see multiple participants, or the participant who is currently speaking will automatically display.

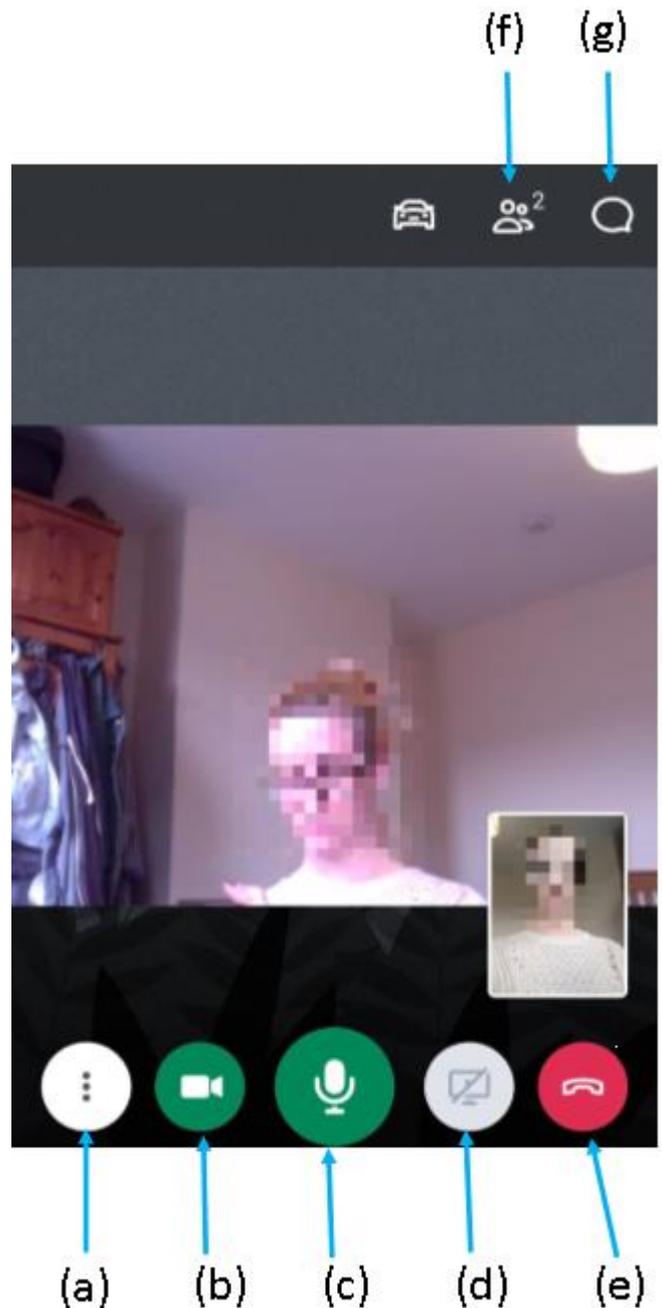
10. The main meeting controls that participants should be aware of are as follows:

- (a) More options—this will allow you to alter various settings.
- (b) Microphone – click this icon to mute/unmute yourself in line with the participation guidance. You are muted when the icon shows as red with a diagonal line through it (as shown).
- (c) Camera – click this icon to enable/disable your camera.
- (d) Share Screen – please ignore this function and do not click the icon.
- (e) Leave meeting – please only click this icon once the Chairman has confirmed that the Hearing has concluded.

*These icons will display in the bottom centre of your screen. Should they vanish, please tap this area of your screen once and they should re-appear.*

11. Other controls available are:

- (f) Attendees – a list of currently connected participants.
- (g) Chat – allows you to send direct instant messages to all participants. Please only use as instructed in the participation guidance.



12. Once each session of Hearings has concluded, Panel Members should leave the meeting by clicking icon (e) in the main controls.

## **SECTION (iii) - Accessing GoToMeeting via a Telephone Call**

**1.** The Clerk will have provided, via email, a telephone number for you to call to gain access to the meeting, along with a 9-digit Access Code.

Please dial the telephone number when you wish to join the session, ideally in good time before Hearings commence. Morning sessions will begin at 9.30am, the Clerk will 'start' the meeting so that Panel Members can join from 9.00am. Afternoon sessions will begin after the lunch break at 13.15pm, the Clerk will 'start' the meeting so that Panel Members can join from 12.45pm. Appellants will be advised on an individual basis when they should join for their Hearing.

**2.** After dialling and connecting, you will be asked to enter an Access Code followed by the hash sign (#) using your phone's keypad.

Please use the 9-digit code previously provided to you by the Clerk.

**3.** When asked to enter an Audio PIN, please immediately enter the hash sign (#) to be connected to the hearing.

**4.** Most telephones (whether mobile or landline) will have the capacity to mute their microphones, however it will vary depending on the device. For most mobile phones it'll be an option on the screen while the call is ongoing. For landlines it is less predictable, it'll likely be a function on the main body of the machine (as opposed) to the receiver. We suggest you spend some time familiarising yourself with how to mute your device before the Hearing starts.

**5.** Once each session of Hearings has concluded, please disconnect from the call.