

Admission appeals guidance notes

Guidance for parents and carers on the appeals process and infant class size appeals (Reception, Year 1 and Year 2).

VERY IMPORTANT: If you do not submit all your information and evidence by the specified deadline, the Panel has to decide before the hearing starts whether or not to accept the late information. In deciding, the Panel will take into account the significance of the late information and the effect of a possible need to adjourn the hearing. It may be necessary to adjourn the hearing to a different date to enable all parties to consider further the late information/evidence submitted.

Who is at the hearing?

- The Panel considering your appeal is made up of three members and includes at least one lay representative and at least one representative with educational experience or a parent of a child in school. People with any connection to the school concerned will not be selected as Panel members.
- A clerk is appointed to take notes and to advise the Panel on issues of procedure and law.
- A representative of the school/admissions authority will also attend the hearing to present their case. At no time will they be with the Panel when you are not there.

What happens at the hearing?

- The chair of the Panel will ask you and everyone else present to introduce themselves. S/he will then check that you are aware of the procedure.
- The school's/admissions authority's representative will then present their case to the Panel. They should explain the admissions criteria, how the places were allocated and why there would be a breach of the infant class size limit if any additional pupils were to be admitted to the school.
- You can ask the representative(s) any questions you have about the school's/admission authority's case and the Panel may also ask the school/admission authority questions.
- You will then be asked to explain to the Panel why you want your child to go to this particular school. Even if you have given a full written set of reasons, it helps if you briefly go through the main points again (you may find you think of other details to tell the Panel). Remember, this is your only opportunity to explain your case. You should tell them anything you think may be relevant, no matter how unimportant it may seem to you.
- The representative of the school/admissions authority and the Panel may ask you any questions.
- The school/admission authority will have the opportunity to summarise their case.
- You will have the opportunity before the end of the hearing to summarise your case.

- Before you and the representative of the school/admissions authority leave the room please ensure you have said everything you want to say.

How do the Panel reach their decision?

The Panel's task is to review the decision already made. It does not have the flexibility to say that your personal circumstances mean that you should have a place at the school, if this would take the number of children in the class over 30. This makes an infant class size appeal different to other school admissions appeals.

In coming to its decision the Panel can only consider the material that was available to the admission authority at the time when it made its decision, or material which would reasonably have been available to the school/ admission authority. The Panel can also consider any fresh material you wish to submit to prove that the arrangements had not been properly applied or that the admission authority acted unreasonably.

The Panel must follow a two stage decision process when considering infant class size appeals.

First stage – examining the decision to refuse admission

The panel must consider all the following matters:

- a) whether the admission of an additional child/additional children would breach the infant class size limit;
- b) whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998;
- c) whether the admission arrangements were correctly and impartially applied in the case(s) in question; and
- d) whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case.

Where your child has been refused admission to a school on the grounds of infant class size, an appeal Panel **may** only uphold (allow) an appeal at the first stage where:

- (a) it finds that the admission of additional children would not breach the infant class size limit; or
- (b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied: or
- (c) it decides that the decision to refuse admission was not one which a reasonable admission authority/school would have made in the circumstances of the case.

Your grounds for appeal should refer to these specific issues listed above.

- The Panel **must** dismiss the appeal at the first stage where:

- (a) it finds the admission arrangements did comply with admissions law and were correctly or impartially applied; or
- (b) it finds the admission arrangements did not comply with admissions law or were not correctly or impartially applied, **but that your child would not have been** offered a place if the contravention had not occurred; and
- (c) it finds that the decision to refuse admission was one which a reasonable admission authority could have made.

Reasonableness

For the Panel to determine that a school's/ admission authority's decision to refuse admission was unreasonable, it will need to be satisfied that the decision to refuse to admit your child was "perverse in the light of the admission arrangements". This means that the decision was "beyond the range of responses open to a reasonable decision maker" or "a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it". This is a high threshold.

The second stage

If the appeal has **not** been dismissed at the first stage, the Panel will go on to consider yours and any other appellant's case and decide which, if any, to uphold. Where the school could admit a certain number of children without breaching the infant class size limit or could take measures to avoid breaching the limit, the Panel must uphold appeals of at least that number of children.

How will I know the Panel's decision?

You will be sent a letter or email confirming the decision and explaining the reasons for it. This will be sent as soon as possible, but in any event, within five school days of the final hearing for that school, wherever possible. The Clerk will advise you of the likely timescale at the hearing.

What happens after the appeal?

- If your appeal is successful you will have a place at the school for your child. The school will contact you to make arrangements for your child's admission.
- If your appeal is unsuccessful you do not have a further right of appeal for the same year group (you can appeal again next year). Your child's name will remain on the waiting list.

What is an 'infant class size' appeal?

The Infant Class Size legislation states that there must not be more than 30 children per school teacher in an infant class (that is, classes containing reception, year 1 and year 2 children).

This applies even if other adults are always present, and/or some children are absent.

Following the introduction of infant class size limits, the Admission Authority does not have to meet parental preference and can refuse to give a child a place if it would take a class over 30 pupils and cause "class size prejudice". This would mean the school having to take "qualifying measures" Qualifying measures could include employing an additional teacher; building an extra classroom or a reorganisation of classes.

There are a few circumstances in which an additional child or children may be classed as an 'exception' and the class sizes goes over 30. But if children leave and the class size returns to 30, that does not mean extra children can be admitted again.

What happens before the appeal hearing?

- At least **10 school days** before the hearing (unless you have agreed to a shorter notice period) you will be notified of the date, time and venue for your hearing. You will also be informed of the clerk's name, people who will be present at the hearing and the names of the Panel members.
- The clerk will then send you a set of case papers **7 working days** before the hearing. These are the same papers that the Panel members receive - they do not receive any papers that you are not sent.
- The case papers include:
 - information on your original application
 - your completed appeal form
 - any additional documents you have submitted
 - the admission authority's written statement
 - information on admissions to the school

Please bring these case papers with you to the hearing.

- When you receive the case papers, please contact the clerk to confirm who will attend the hearing. We strongly suggest that you attend the hearing, as it will allow you to ask any questions you may have and the Panel members can also ask you questions.
- You may bring a friend or adviser with you to the appeal hearing. This person can come into the hearing with you and can help you present your case - this can include the School Preference Adviser (SPA), a locally elected politician or social worker.
- It is up to you whether or not to bring your child to the appeal hearing. However, we advise against this as it may be uncomfortable or distressing for the child if they are the subject of the appeal and they might distract you and others from the proceedings. If you are unable to arrange childcare for younger children, we suggest you bring someone with you who can wait outside the meeting room with your child(ren).

- If you cannot attend on the date or time given for your appeal you should contact the appeals administrator or the clerk as soon as possible. Please note that it may not be possible to offer you an alternative date and, in these circumstances, the appeal will go ahead and be decided on the written information submitted.
- You should let us know as soon as possible if you decide to withdraw your appeal for any reason, or are offered a place at the school you are appealing for. You should also tell us if you decide not to attend your appeal hearing.