

## SCHOOL ADMISSION APPEALS NOTES OF GUIDANCE

### **INTRODUCTION**

The effect of legislation since 1980 is that an admission authority (for community schools, this is the LEA, for foundation and aided schools, it is the governing body) is legally required to comply with the preference expressed by parents as to the school they wish their child to attend, unless to do so would prejudice provision of efficient education, or the efficient use of resources. Legislation also gives parents the statutory right to appeal against refusal of admission, and sets out the rules for the constitution of independent statutory appeals panels.

The School Standards and Framework Act 1998 also placed a duty on admissions authorities to ensure that by September 2001, no infant (Reception, Year 1 or Year 2) class taught by a single teacher should contain more than 30 pupils. This Act furthermore modified and restricted the powers of appeals panels to order admission of pupils to Reception classes from September 1999 onwards. In these cases, 'prejudice' will be said to have arisen if to admit any more pupils would cause the admission authority to employ an additional member of staff, or build extra accommodation, in order to keep classes taught by a single teacher to 30 or below.

The result of your appeal will depend on the strength of your case. **In most admission appeals, the panel goes through two stages** (see **Appeals for Other Year Groups 3-11**).

At the first stage, the panel hears the case put by the admission authority, explaining why a place was not offered at your preferred school. The panel decides whether there was good reason for turning down the application (the phrase sometimes used is "whether the admission would be prejudicial to efficient education or the efficient use of resources"). An example might be where the school had very small classrooms and couldn't fit your child in without making the space too cramped for good teaching and learning.

If the panel decides there was good reason for refusing your application, it will begin the second stage of the appeal, where it considers your case, and all the reasons why you are appealing for a place at that particular school. You can mention all the reasons why you feel that school would be best for your child, and what special factors justify your child getting a place there in spite of the good reasons for turning you down. The panel must then make a "balancing judgement". They must decide whether the benefits to your child of going to the school outweigh the bad effects on the school and other children of having one more pupil in the class. If the appeal panel decides that your case is the stronger, it will uphold your appeal, and the admission authority is then under a duty to admit your child to the school.

**Different rules may apply if your application has been refused because the class has reached its legal limit of 30** (see **Infant Appeals**). In this type of appeal the appeal panel are only allowed to look at three things. The first thing is whether the admission authority stuck to its own rules which were published in its admission arrangements. If the admission authority broke its own rules, either deliberately or by mistake, then your appeal can succeed, but only if your child would have got in if the rules had been applied properly.

The second is whether the admission authority acted **unreasonably**. The law defines “unreasonable” very carefully in these cases. For the decision to be “unreasonable”, it must be completely illogical, or not based on the facts of the case. The facts of the case include the published admission arrangements, the number of applicants, the number of classrooms at the school, and other factors to do with the school or the admission authority. The facts of the case **do not include** facts particular to your child, or any special reason you might have for wanting your child to go to that school (the convenience of the journey from home to school, for example). The second is whether the authority **made a mistake** in administering its admission arrangements.

You are free to talk about personal factors at the appeal hearing if you want to, **but in this type of appeal the appeal panel cannot take them into account unless they are relevant to one or other of the two things they are allowed to look at.**

If your appeal succeeds, the admission authority must offer your child a place at the school. If your appeal does not succeed, you can ask for your child to be put on the waiting list (if there is one), as places sometimes become free later on.

### **THE NOTICE OF APPEAL**

It is a legal requirement that the grounds for appeal must be given in writing. The attached form must be carefully filled in so that all relevant facts are known to the Panel prior to the hearing. If you have already provided reasons for your appeal in writing, copies of that correspondence will also be included with the papers. You and the Panel will be provided in advance with a copy of the admission authority’s case for refusal, as well as copies of all papers you wish to present as evidence to support your case.

### **THE PANEL**

The Panel usually comprises three members, at least one of whom must be a Lay Member (an ordinary member of the public, who is not an employee of the council, or the admission authority concerned). There must also be an Education Member, who is experienced in education, but not an employee of the council or admission authority (for example a school governor). The third member may be either a Lay or an Education Member. All of these people will have received external training in how to consider appeals. None of them will have had any prior involvement with the admissions process, or prior knowledge of your case. None of them will have any connection with the school, or schools, concerned in your case.

### **THE PROCEDURE**

You will be notified at least two weeks in advance of the date, time and venue of the hearing, unless you have agreed to a shorter notice period. Your papers will usually be sent to you a week before the hearing. A note of procedure will be provided with your papers, so that you will know what to expect if attending in person. Those present will be the Panel Members, a Clerk to take notes, at least one representative of the admission authority, and yourself(ves). All efforts will be made to ensure the hearing is as informal as possible, but it will follow a pre-determined structure to make sure everyone has the opportunity to speak, as well as to ask questions.

You may, if you wish, bring with you a friend for moral support, or a representative to speak for you. If you wish to be legally represented, you should make this clear on the Notice of Appeal form, as the admission authority may, in that case, also wish to be legally represented. The Secretary of State for Education has said however, that he expects that legal representation will seldom be necessary or appropriate.

It is not usually appropriate for children to attend the hearing. As crèche facilities are not available, it would be helpful if you could arrange alternative childcare provision.

If you have indicated on the form that you wish to attend the hearing but do not do so having failed to give an explanation, the Panel can decide to proceed in your absence.

Where there are a number of appeals for the same school, the case put forward by each parent is heard individually and confidentially. No decision is reached until all parents' cases have been considered.

### **APPEALS REFUSED ON INFANT CLASS SIZE GROUNDS** (KS1 Class Size Prejudice)

The admission authority will present its case as to the measures it has taken to comply with the class size limit, and will state the reasons why it believes the admission of any more children to your preferred school would prejudice the provision of efficient education or the efficient use of resources, as represented by the measures taken to meet the class size limit. The Appeal Panel and you may ask questions of the authority's representative on the matters raised in this evidence, and, after questions, the authority's representative will have the opportunity to sum up the case. New evidence may not be introduced at this stage.

You then have the opportunity to explain to the Panel why you wish your child to attend your preferred school. The Panel will ask you which of the reasons (a), (b) or (c) on the appeal form, apply to your case, and why. You should concentrate in your presentation on those reasons, as the Panel is not empowered to take other factors such as your personal circumstances into account. You will need to demonstrate either,

- (a) that your child would have been admitted if the admission arrangements had been properly implemented. You may briefly sum up your reasons, but no new evidence may be given in summing up, or
- (b) that your child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admissions Code and the School Standards and Framework Act of 1998, or
- (c) that the admission authority's decision was an unreasonable one (unreasonable in the sense of perverse).

In coming to its decision on each case, the Panel must decide whether it is satisfied that either or all of the reasons (a), (b) and (c) apply to you. If they do, your appeal will be allowed and your child admitted to the school. If not, your appeal will be dismissed and the refusal of admission confirmed.

### **APPEALS FOR OTHER YEAR GROUPS (YEARS 3 – 11)** (Prejudice Grounds)

The Panel is obliged to take a two-stage approach to reaching a decision for all other year groups.

## First Stage

Having heard the admission authority's case for refusal of admission and asked questions about it, they must first decide whether the case has been made that to comply with the preference would prejudice the provision of efficient education or the efficient use of resources. If they do not believe the authority has made its case, they will allow the appeal and agree admission.

## Second Stage

If however they are satisfied the admission authority has made its case, the Panel must then decide whether the parents' reasons for wanting a place at the particular school are sufficiently strong to outweigh any prejudice to efficient education or efficient use of resources. If they think the case is strong enough, they will allow the appeal and agree admission, if not, they will dismiss the appeal and confirm the refusal.

## **THE DECISION**

Where there is more than one appeal for the same school, the Panel may decide to deal with them all at the same time, or if they are dealt with separately, decisions will be made after all have been heard. Any places awarded at appeal are over and above the published admission limit of the school. No places are reserved for this purpose.

The decision will be communicated to you in writing by the Clerk, ideally, within five working days of the hearing.

**THE APPEALS PANEL'S DECISION IS FINAL AND LEGALLY BINDING ON ALL PARTIES.**