

SCHOOL ADMISSION APPEALS

INFANT CLASS SIZE - GUIDANCE NOTES FOR PARENTS

Information on infant class size appeals taken from the Department for Education Admission Appeals Code 2012

Why has my application to this school been refused?

Your application for admission has been refused by the Local Authority (LA) because the class has reached its legal limit of 30. Infant class size appeals happen when a school place has been refused in **Reception, Year One or Year Two** on the grounds that the school cannot take more than the legal limit of 30 pupils in a class with one qualified teacher.

This is why the letter sent to you from the LA will have mentioned the phrase 'class size prejudice' as one of the reasons why your application has been refused. Prejudice in this instance means any action that would impact on the standard of education in the school. If the school had to build an extra classroom or employ an extra teacher in order to keep class numbers within the statutory limit of 30 children, it would obviously have a cost and mean there was less money available for the education of children already in the school.

Under certain specific circumstances, a child appealing for a place outside the normal admissions round may come under the category of an 'excepted pupil', e.g they may be looked after children or children of members of the armed forces, and they can be admitted to a class of 30 without the school having to take relevant measures. Details of the exceptions can be found in the 2012 Admissions Code, Para 2.15 – available on the Department for Education website - <http://www.education.gov.uk/>.

You have the statutory right to appeal against the Admission Authority's decision, but you should be aware that the chance of success in this type of appeal is very limited.

What if the school admits under 30 children each year will it still be an infant class size appeal?

The panel has to look at the infant class requirement across the whole of key stage 1 -

Reception, Year 1 and Year 2. For example, where a school admits 20 children each year, but teaches Reception, Year 1 and Year 2 in two classes of 30, an appeal for a place would be an infant class size appeal. Or where the reception admission number is 45 taught in 2 classes this would lead to a breach of infant class size in the future when the children progress to years 1 and 2, where children are taught in three mixed classes of 30 pupils.

This will be explained to you at the appeal and considered by the panel.

What issues can the appeal panel consider?

The panel are only allowed to consider **the following factors**:

- whether the admission of an additional child or children would breach the infant class size limit
- whether the admission arrangements complied with the mandatory requirements
- whether the admission arrangements were correctly and impartially applied in this case and if not the child would have been offered a place if a mistake had not been made
- whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case

“Unreasonable” means irrational or perverse in the light of the admission arrangements. A decision that makes it impossible for you to transport all your family to school on time, having your children at different schools or even impossible for you to continue working, is very unlikely to be perverse. The courts have established this. (Local Government Ombudsman fact sheet 27/5/15)

As the grounds for upholding an appeal of this type are very limited, the percentage success rate is minimal. In considering whether you wish to appeal in such circumstances, you must be aware that your personal reasons for wanting the school, however strongly you feel, **cannot be taken into account unless they are relevant to any of the above bullet points.**

If you have evidence supporting your case, which suggests that a) the Admission Authority was not in full possession of facts before the allocation of places was made and this information would have resulted in your child being offered a place; or b) that they had information which means that the decision to refuse a place was not one that a reasonable admission authority would make, this must be received at least 7 days before your individual appeal hearing. Any information or evidence not submitted by the deadline might not be considered at the appeal.

How is my appeal organised?

At least 14 days before your hearing, the School Appeals Officer will send you details of the time and place of your appeal. Please let us know whether you will be attending. Unless you inform us otherwise, we will assume that the date and time is convenient. If your appeal has been scheduled to be heard between May and September (our ‘bulk’ period) and the dates are not convenient, it may not be possible to offer an alternative for some time because appeal panels are arranged so that one panel hears all the appeals for the same school. If you have a problem with the date or time of your appeal contact the clerk

who will be able to give you an idea of when a rearranged appeal is likely to be heard. If you don't ask us to postpone your appeal and don't turn up, the appeal panel will decide the appeal by looking at the written evidence you have provided. The appeal panel will give equal attention to all appeals, whether or not the parent/carer/representative is present.

The papers for the appeal (which include your case and the school's case) will be sent out about a week before the hearing, to you, to the Panel and to the LA/Governing Body.

The Appeal Panel

Three people (who are all trained volunteers) sit on each school admission appeal panel, they include the following:

- people who have experience in education, are acquainted with educational conditions in the LA's area or who are parents of registered pupils at a school; and
- lay members who have no personal experience in the management or provision of education in any school (other than as a governor or volunteer helper).

All panel members have been trained. The panel will be independent of the LA (or Governing Body in the case of Voluntary Aided (VA)/Foundation Schools or Academies) and will have no connection with any of the schools under consideration.

Who else will be present?

The School Appeals Officer will be present (a member of the Council's Democratic Services Section) who will take notes of the proceedings and offer guidance on the conduct of the appeal if necessary. There will be a representative from the LA (or Governing Body in the case of VA Schools or Academies) who will explain why admission to the school has been refused.

Do I need to attend the hearing?

We strongly encourage you to attend in person. Your presence enables the Appeal Panel to talk to you and get a clear understanding of your case. You are welcome to bring a friend or relative to support you, who may also speak on your behalf. If you decide not to attend, the appeal will be decided on the basis of your written evidence.

What if I have special needs?

If you have any particular needs or concerns about the appeal process or you think you might have difficulty in accessing the venue, please contact the School Appeals Officer, whose name and address are given overleaf. We will do whatever we can to help or re-assure you.

I've never been to appeal before and I'm nervous

The appeals process operates within a formal legal framework and as such, can seem daunting for some parents. The Panel members and officers all understand that it can be a

stressful and emotional experience and so we try to ensure that you are always treated with courtesy, patience and understanding.

At the Appeal Hearing

We try to keep appeal hearings as informal as possible, but we follow a set procedure which ensures that all appeals are heard in the same way. There are two types of appeal;

Individual (or in-year/mover) appeal – these are heard throughout the year for different schools and different year groups.

Group (or bulk) appeal that is held in the summer for entry to the reception year for primary schools or Year 7 for secondary schools. There are set procedures for each type of appeal.

Individual (or mover) Appeals

When you arrive for your hearing, the School Appeals Officer will meet you, check you are aware of the procedures and answer any questions you may have. You will then be taken to the appeal room and, after meeting the Panel and introductions, the order of the hearing will be as follows:

1. STAGE 1 – presentation of the school's case
2. Questioning by the parent and panel
3. STAGE 2 - presentation of the parent's case
4. Questioning by the school's representative and the panel
5. Summing up by the school's representative
6. Summing up by the parent

Group (or bulk) appeals

- The school's case will be presented at a single group hearing to which all parents appealing for places at that school will be invited.
- Parents will be invited to direct questions (only on the school's case, not their child's case) to the LA officer and/or the headteacher.
- You will be given a separate time to return for your individual hearing with the Panel – this hearing will proceed on the lines of points 3 – 6 shown above.

After the hearing the Chair will ask whether you have had the opportunity to say everything you need and feel you were treated fairly.

Decision Making

The panel will make its decision after both parties have left. They will consider whether:

- a. whether the admission of an extra child would breach the infant class size limit
- b. the admission arrangements are lawful and comply with the School Admissions Code
- c. whether a mistake was made and your child would have been given a place if the mistake had not been made
- d. the decision was one which a reasonable admission authority would make in the circumstances of the case.

Please be aware that, in these infant class size cases, the Panel can only review the LA's decision to refuse admission. If the Panel finds the Authority has acted reasonably and that admission arrangements have been properly implemented, your appeal will not be successful. As the Appeals code states – 'the threshold for finding that an admission authority's decision to refuse admission was not one that a reasonable would have made, is high'.

Results of Appeals

After the hearing the School Appeals Officer will advise you when the decision making will take place. You can phone the School Appeals Officer at any point after this to find out the result of your appeal. In any case you will be informed in writing about the result of your appeal and the reasons for the Panel's decision.

The decision of the appeal panel is binding on all parties. There is no further right of appeal.

If you have any concerns or complaints about how your appeal was conducted you should contact the School Appeals Officer:

B&NES School Appeals Officer

Enfys Hughes (Mrs), Democratic Services
Bath and North East Somerset Council
Lewis House,
Manvers Street,
Bath BA1 1JG

Telephone - (01225) 394410

E-mail - enfys_hughes@bathnes.gov.uk

Useful addresses:

Department for Education

Website: <https://www.gov.uk/schools-admissions>

Advisory centre for Education (ACE)

Website: http://www.ace-ed.org.uk/advice-about-education-for-parents/school_admissions_and_appeals

If you wish to make a complaint about the appeal process, write to:

Local Government Ombudsman

Website: <http://www.lgo.org.uk/>

Prepared by Bath & North East Somerset Council Democratic Services
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