

## Infant Class Size Appeals Procedure: Notes for Parents

Please read these notes carefully

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### 1. Infant Class Size Appeals – Class Size Prejudice

Regulations limit the size of an infant class (Reception, year 1 and year 2) with one teacher to 30 pupils. The Admission Authority can refuse to give a child a place if it would take a class over 30 pupils and cause 'class size prejudice'. Only in very limited circumstances can admission over the limit be permitted.

The Appeal Panel may only uphold an appeal if:

- (a) it finds that the admission of an additional child would not breach the ICS limit; or
- (b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied, and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or
- (c) the decision to refuse admission was not one which a 'reasonable' admission authority would have made in the circumstances of the case,

The threshold for finding that an admission authority's decision to refuse admission was not one that a reasonable authority would have made is high. The Appeal Panel will need to be satisfied that the decision to refuse to admit the child was 'perverse in the light of the admission arrangements' i.e., it 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'

**Given the limited nature of the possible grounds on which an appeal may be upheld, Infant Class Size Appeals are rarely successful.**

Parents often find it frustrating when they realise how very limited the powers of the appeal panel are. This is being drawn to your attention now in case it affects your wish to go ahead with the appeal or to come to the hearing. The purpose of this guidance is to clearly explain the role of the Panel and not in any way to discourage you from appealing or attending the hearing which is, of course, your legal right.

## **2. Date, Time and Place**

You will be informed of the date and time of your appeal, by email, at least 10 School Days prior to the hearing (unless you have waived your right to this notice period).

Your hearing will be heard virtually using Microsoft Teams. The email address you provide will be used for all correspondence and to send the invitation for the virtual hearing. If you are unable to communicate with us in this way or access a virtual hearing, please contact school appeals on 0845 155 1793.

## **3. Preparing for the Appeal**

If you have any special requirements for the hearing, please fill in and return the form enclosed in order that the necessary preparations can be made.

You will receive a copy of the same papers which go to the Appeal Panel, at least a week before the date of the hearing. If you have any additional documents such as a letter or medical report which you want to bring to the attention of the Appeal Panel, please send a copy to the School Appeals Service (see details below) at least 5 school days before your appeal. In the case of multiple day hearings this means 5 school days before the first day of the hearing.

**Please be aware that if you wish to provide any information after the deadline above, the Panel may not be able to consider it at your hearing. They will take account of its significance and the effect of a possible need to adjourn the hearing when deciding if the information is to be considered.**

**As we are holding virtual hearings, we are not able to accept any additional evidence on the day of the appeal.**

## **4. Attendance at the Appeal**

It will be assumed that the date and time you have been given is convenient unless the School Appeals Service is otherwise informed.

If you are unable to attend the appeal, please contact the School Appeals Service as soon as possible. You will be given the following options:

- (1) Request that the hearing is rescheduled for a later date (please be aware that any appeals for the same school/year group will still go ahead and decisions will be made)
- (2) Send a representative on your behalf (usually a friend or family member)
- (3) Have the appeal heard in your absence.

If you choose to have the appeal heard in your absence, the Panel will make its decision by looking at the written information which has been provided. The Panel will give the same attention to your appeal, whether or not a parent/guardian is present. If you do not come to the hearing, it is important that you provide your full reasons for the appeal clearly in writing.

**If you do not attend the hearing without giving prior notice, the Panel may make its decision, in your absence, based on the information provided in your appeal form.**

If you change your mind, and decide not to go ahead with your appeal, please inform the School Appeals Service as soon as possible. You will be asked to quote your unique reference number (which can be found at the top of any correspondence from the School appeals Service) and a number of security questions.

You may bring a friend with you for moral support or a representative to speak on your behalf. This can be a Choice Adviser, a locally elected politician, or an employee of the local education authority such as an educational social worker, SEN adviser or learning mentor, provided that this will not lead to a conflict of interest. However, an employee of the school you are appealing for, or an elected member of the Council, who has a direct role in relation to school admissions, is not allowed to attend in this capacity.

You are free to have legal representation at your hearing if you wish, but this ought not to be necessary. Please inform the School Appeals Service if you wish to call any witnesses or be represented at your hearing.

## **5. Procedure at the Hearing**

The appeal is private, and all papers and discussions are treated as confidential. The Panel will invite you into the meeting and the Chair will introduce those present. The Panel will consist of three people, at least one of whom has experience in education, and another is a lay member. The Chair may be drawn from either of these categories. It is completely independent of the Admission Authority and will, wherever possible, come from another area of the county. It will have no connection with the school you want your child to go to or the school suggested by the Admission Authority.

Also attending the appeal will be a clerk. The Clerk's role is to explain the appeals procedure to all parties and to ensure that the relevant facts provided by the appellant and Admission Authority are recorded along with the Panel's decisions and reasons. The Clerk is also there to provide advice on law and procedure.

For virtual hearings, there will also be a moderator, whose role is to ensure that the technical aspects of the hearing work smoothly and the parties are invited into and leave the hearing at the right times.

At the beginning of the hearing, the Presenting Officer and/or the Admission Authority's Representative will explain why grounds exist not to admit further children to the School. The Panel will consider whether the 'class size prejudice' applies. It will also consider whether the admission arrangements comply with the law and have been properly carried out.

You will have the opportunity to ask questions and express your views. If there is more than one appeal for the same school, other parents appealing may also be present at this stage. Please note that the information presented during the first part of the hearing will not be specific to your child.

You will then have the opportunity to explain, in private, why you want your child to be admitted to the school you prefer. The Panel, Presenting Officer and/or the Admission Authority's Representative may also ask questions or make comments. After hearing representations from all parties, the Panel will decide whether to uphold your appeal on the limited grounds allowed by the law. If there are multiple appeals being heard for the same school, the Panel will not make its decision until after the last appeal has been heard.

## **6. Formality**

Although the procedure may sound formal, this process is followed to ensure that appeals are heard efficiently and fairly. The Panel wants you to feel comfortable and have the opportunity to say everything which is relevant to your appeal.

It is up to you how you present your appeal. However, it is suggested that when you put your case to the Panel, draw its attention to your main reasons as stated in the papers and, where necessary, provide any new information which you feel the panel should take into account.

## **7. The Decision**

The Panel will not give its decision at the hearing. It is appreciated, however, that you will be keen to know the result of your appeal, therefore, a dedicated telephone line has been set up for you to contact on the third working day after your appeal (or the third working day after the last appeal if the hearing is over multiple days). The Panel's decision will then be sent out to you in writing by email. Where possible, this will occur within 5 school days of the hearing.

If there is anything you are not sure about, please contact the School Appeals Service, on 0845 155 1793, or write to us at Warwickshire County Council, Shire Hall, Warwick, CV34 4RL or email [schoolappeals@warwickshire.gov.uk](mailto:schoolappeals@warwickshire.gov.uk) for more information.

School Appeals Service  
February 2023