



BARNSLEY
Metropolitan Borough Council

**DIRECTORATE FOR CHILDREN,
YOUNG PEOPLE AND FAMILIES**

**PROCEDURE FOR INDEPENDENT SCHOOL APPEALS FOR
VOLUNTARY AIDED PRIMARY SCHOOLS**

INFORMATION FOR PARENTS

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Introduction

This booklet contains all the information parents require on the procedure and details for an independent appeal for admission to primary school.

Parents should have retained their copy of the Admission to School – Advice to Parents since it may be referred to during the appeal.

If you have not got a copy of the booklet, a further copy can be obtained from:

The Admissions Officer
Directorate for Children, Young People and Families
Berneslai Close
Barnsley
S70 2HS

Telephone (01226) 7733677 or 773588

Further information and advice on independent appeals can be obtained from:

William Ward
Council' Governance Unit
Town Hall
Barnsley
S70 2TA

Telephone (01226) 773451

General information on appeals

- 1 Any member of the Authority may attend as an observer any hearing by an Appeals Panel established by the Authority.
- 2 Parents will be given at least 14 days written notice of the date, time and place of the appeal hearing and will receive at least 7 days prior to the appeal written documentation summarising the reasons for refusing the admission.

Parents are requested to submit their written documentation 7 days prior to the appeal.
- 3 If a parent does not attend the appeal or is not represented by another person the hearing will be held and the case dealt with in the absence of the parent using only the written documentation.
- 4 In some cases, parents who are not successful at the appeal occasionally consider applying again for the same school in the same academic year. Unless there have been significant changes in the circumstances of the parent(s) or the school, the Authority is not required to reconsider its decision and therefore parents do not have the right of another appeal.

- 5 All independent appeals are organised and follow procedures which are set out in legislation.

The important requirements of any independent appeal are:

- (a) Appeals must be in writing stating the grounds on which the appeal is made
- (b) Every parent has the right to attend the independent appeal in order to make their case to the panel
- (c) The parent can be accompanied by a friend or be represented by them
- (d) Independent appeals are heard in private
- (e) The decision of the Appeals Panel is binding on both parents and the Authority
- (f) The decision of the Appeals Panel in writing will be sent to parents

General information on appeals

If you have not been offered a place at a school for which you have expressed a preference you have the right of an independent appeal.

Fourteen days prior to the appeal the School will send to the parent a copy of its case for not offering the parent a place at the school.

The case will comprise of:

- current legislation on admissions
- Council policy
- number on roll
- capacity of the school
- class/year group organisation
- specific operational and management issues related to the individual school

Please note:

In the admission to school process the term 'transfer' is used to mean an admission into the school other than at the normal date of entry.

Complaints

If, having exhausted the Authority's Admission procedure, parents have a complaint about the way their case was dealt with they can contact the Commission for Local Administration in England (The "Local Government Ombudsman"). The address is Beverley House, 17 Shipton Road, York, YO30 5FZ (Tel 01904 380200).

Infant Class Size Appeal

Infant classes are those in which the majority of children turn 5, 6 or 7 during the course of the school year i.e. reception and Key Stage 1 classes. Legislation limits the size of an infant class during an ordinary teaching session to 30 pupils per school teacher. However there are permitted exceptions to the limit (see annex 1).

The Local Authority must admit pupils up to the published admission number at schools. Once the admission number has been reached further pupils are refused admission if it would create class(es) above 30 pupils.

If the size of the class exceeded 30 pupils it would be necessary for the school to take "qualifying measures" to keep within the statutory class size limit.

"Qualifying measures" would be to employ an additional teacher.

An infant class with one teacher will be allowed to have more than 30 children in certain very specific circumstances. One of those circumstances is that the pupil was allowed admission by an independent appeal panel under one of the grounds below:

- (a) the child would have offered a place if the school's admission arrangements had been properly implemented;
- (b) the child would have been offered a place if the school's admission arrangements have complied with the requirements of the School Admissions Code
- (c) the decision was not one which a reasonable admission authority would have made in circumstances of the case.

Reasonable decision

The Court of Appeal confirmed that in considering this ground for an appeal the panel cannot conduct a rehearing of the original application for admission, although it can have regard to fresh evidence. **In other words, the panel cannot substitute its finding for that of the original admission authority.** It can only ask itself whether the decision to refuse admission was one which a reasonable admission authority would now make in the circumstances of the case.

The court said that those circumstances might include fresh evidence as well as the fact that all of the available places have already been allocated. At the same time, the court said that any such new information would need to be persuasive and confirmed the strictness of the test under this ground. The panel can only uphold the

appeal if, having looked at all the relevant information, it considers that the decision by the admission authority to turn down the original admission application was unreasonable.

Unreasonable in this sense means irrational – a decision which no reasonable admission authority properly aware of its duties, would make. Unless it is such a decision, the appeal must fail.

The purpose of this appeal is to review the School's decision.

Circumstances of the case:

- Parent's preference
- Admission arrangements
- Circumstances of the particular child and family
- Practical consequences for the school
- Interests of other children competing for places

Guidance from the Court of Appeal:

That the original decision should stand unless such additional material is persuasive and, taken with the rest of the information available, and any other relevant circumstances, renders the original decision irrational. Relevant circumstances would include, for example, the fact that such material could have been made available to the admission authority at the time it made the original decision, or the fact that all the available places have already been allocated.

The parents need to make a *'particular case which is so compelling that the decision not to admit the child is shown to be perverse'*. It is then for the admission authority to explain the admission arrangements, and if necessary explain the particular problems relating to the school in question. It will be necessary for the admission authority to show that it was objectively fair not to admit the child in question. The appeal panel must be careful not to give the impression that it is merely *'rubber stamping'* the admission authority's initial decision. But at the same time, the panel chair must make clear to the parents that their appeal can only succeed if the panel concludes that *'it was perverse in the light of the admission arrangements to refuse to admit the particular child'* who is the subject of the appeal.

Perverse – acting against all the weight of evidence.

Admission arrangements

In considering an appeal under the ground that the admission arrangements have not been properly implemented the following points apply:

- the information available to the School at the time the decision was made;
- the information the School needed in order to make a reasonable decision;
- fresh material may be allowed from the parent in order to assist in identifying the original error.

Appeal should only be upheld in cases where it is clear that the child would have been offered a place if the admission arrangements had been properly implemented.

However, even if the admission arrangements had been properly implemented the child may still not have been offered a place.

Procedures to be followed in a one stage appeal

Parents are advised to attend the appeal.

- 1 The clerk will inform the parents of the process to be followed.
- 2 Representatives from the school will explain the School's case in two parts.

Part 1

Representatives from the school will give details of the School's admission arrangements including details of the co-ordinated scheme for admission to school to show that no error was made in dealing with the application.

This will cover Grounds A and B for an appeal: ***that the child would have been offered a place if the school's admission arrangements had been properly implemented, or the arrangements had complied with the requirements of the School Admissions Code.***

Part 2

The Education officer will explain why the decision not to offer a place at the school was reasonable in the context of the limit on infant class sizes.

This will cover Ground C for an appeal: ***that the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.***

- 3 Parent(s) to ask questions of the School Representatives.
- 4 Panel to ask questions of the School Representatives.
- 5 The parent(s) will then be invited to respond to the decision to refuse admission as set out under either grounds for the appeal.

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- 6 School Representatives to ask questions of the parent(s).
 - 7 Panel to ask questions of the parent(s).
 - 8 School Representatives and parent(s) to retire from the room.
 - 9 Panel decision.

Two Stage Appeal

A two stage appeal is for those children where a place at the school has not been offered because the number of applications received was above the number of places available (admission number).

The oversubscription criteria were applied to all the applications and your application was refused under the criteria of distance.

To admit any further children above the admission number would prejudice the provision of efficient education or the efficient use of resources.

The two stages in this type of appeal are:

First: a factual stage: at which the panel considers whether the School's published admission arrangements were correctly applied in the individual's case, and decides whether "prejudice" would arise were the child to be admitted.

If the appeal panel is not satisfied in the first stage that there would be prejudice then the panel will allow the appeal.

However, if they determine that a further admission would cause prejudice the appeal continues to the second stage.

Second: a balancing stage: at which the panel exercises its discretion, balancing between the degree of prejudice and the weight of the parental factors, before arriving at a decision.

Procedure to be followed in a two stage appeal

Parents are advised to attend the appeal in order to present their individual circumstances. However, if parents cannot attend they can be represented at the appeal by a friend or relative, or submit written documentation.

- 1 Clerk to inform parents of the two stage procedure for the appeal hearing.
- 2 Education Officer supported by the Headteacher to give reasons for the refusal to allow admission (The case for prejudice by the Authority).
- 3 Parents to ask questions of the School Representatives on the case they have presented.
- 4 The Panel to ask questions of the Education officer and Headteacher.

- 5 Education Officer, Headteacher, Parent(s) and Friend(s) to retire from the room.
- 6 Panel to make a decision on whether there would be prejudice if further admissions were allowed at the school.
- 7 On returning to the room the Clerk will announce the Panel's decision.
 - The Authority has not proved the case for prejudice the appeals will be allowed and the hearing is concluded
 - The Authority's case is proved and prejudice is established, the hearing will move to the next step of the procedure.
- 8 Parent(s) will be invited to present their individual circumstances as to why their child should be admitted to the school.
- 9 Education Officer to ask questions of the Parent(s).
- 10 Panel to ask questions of the Parent(s).
- 11 Education Officer, Headteacher, Parent(s) and Friend(s) to retire from the room.
- 12 Panel to consider their decision on the Parent's case.
- 13 On returning to the room the Clerk will announce the Panel's decision.
- 14 The Clerk will ask the Parent(s) if they are satisfied with the way in which the appeal has been conducted.
- 15 Following the appeal the Clerk will inform, in writing, the Authority and the Parent(s) of the Panel's decision.

In – Year Transfers for Reception, Year Groups 1 and 2

The reason for not offering your child a place at the school for which you have expressed a preference will be one of the following:

Reason 1

That to admit the child into the school would breach the infant class size limit of 30.

See Pages 3-6 for explanation of the appeal.

Reason 2

Irrespective of the number of pupils in the year group or class into which the pupil would be admitted, any further admissions would prejudice the provision of efficient education on the efficient use of resources.

See Pages 6-7 for explanation of the appeal

Appeals for admission into year 3 in a Junior school

Reason for not admitting the pupil

The number of applications for the junior school were higher than the number of places available (standard number) in the relevant year group.

For a junior school the relevant year group is year 3.

The oversubscription criteria were applied and your application was refused, because to admit any further children above the standard number would prejudice the provision of efficient education or the efficient use of resources.

The procedure for the appeal which is a two stage process is given at pages 6 to 7.

Appeals for transfer into Years 4 to 6

This applies to primary and junior schools

Reason for not admitting the pupil

Irrespective of the number of pupils in the year, group or class into which the pupil would be admitted, any further admissions would prejudice the provision of efficient education or the efficient use of resources.

The procedure for the appeal, which is a two stage process is given on pages 6 to 7.

The DCSF Parents Centre website offers advice to parents on a wide range of school related issues and has links to both the Admissions and the Appeals Code of Practice.

Website www.dfes.gov.uk/parents

The DCSF provide statutory guidance on school admission appeals in the document:

School Admission Appeals Code of Practice

A copy of this publication can be obtained from:

DCSF Publications
PO Box 5050
Sherwood Park
Annesley
Nottingham
NG15 0DJ

Telephone 0845 6022260

Email : dfes@prolog.uk.com

Frequently asked questions

Listed below are questions frequently asked in relation to school admission appeals. Further information and frequently asked questions regarding school admissions are detailed in the Advice for Parents – Admission to Primary School booklet, which you were advised to retain.

My child has been refused a school place because of infant class size legislation. What does this mean?

An infant class is a class in which the majority of pupils will reach the age of 5, 6, or 7 during the school year. These classes are normally Reception, and Years 1 and 2, although it can affect a Year 3 class where mixed groups exist. The law states that subject to limited exceptions, no infant class with one qualified teacher may contain more than 30 pupils. If the School were to admit more pupils, it would need to take “qualifying measures”.

What are Qualifying Measures?

Qualifying measures are measures required to be taken in order to ensure compliance with the statutory limit on infant class sizes. This may include employing an additional qualified teacher, building an extra classroom or mixing year groups.

Do I have to attend the appeal panel hearing?

No, but you are strongly advised to attend. You are the best person to tell the Panel why you want your child to go to the preferred school(s), as you know your situation and will be able to provide information and answer questions to help the Panel make an informed decision.

If you do not attend the appeal, or you are not represented by another person, the hearing will be held and dealt with in your absence using only the written documentation submitted.

Who are the Appeal Panel Members?

- one member must have experience in education; be familiar with educational conditions in the Barnsley District; or be a parent of a registered pupil at a school
- one member must be a lay person, i.e. someone without personal experience in the management of any school or the provision of education in any school (disregarding experience as a school governor or in any other voluntary capacity)
- the third member will be from either of the above two categories

No panel member will have any connection with the school in question.

What powers does the appeal panel have?

The appeal panel can either refuse or allow your appeal, and the decision is binding upon the School and you.

Multiple Appeals

Dependent upon the number of appeals for particular schools, the appeals process will take place over a number of sessions until all the appeals in that group have been heard.

All parents will be invited as a group to the first session to hear the School's case at Stage 1.

If the School does not prove that prejudice would arise for all the appellants, then all the appeals will be allowed.

If the Panel find that the School has proven that prejudice would arise, the appeals process will move to Stage 2 of the procedure.

Stage 2 is "in private". No other parents will be present when you present your case to the panel.

When will I know the appeal panel's decision?

At your appeal, the clerk will inform you when to expect to receive the decision letter. This will be as soon as possible after the appeal hearing(s).

If my appeal is unsuccessful, can I appeal again?

Unless there have been significant changes in the circumstances of the parent(s) or the school, the School is not required to reconsider its decision, and therefore parents do not have the right of another appeal.

Does the class size limit apply to mixed nursery/reception on Year 2/Year 3 classes?

The duty applies to classes where the majority of children will reach the age of 5, 6 or 7 within the school year. So, if the majority of the children within a class will be aged 5, 6 or 7 by the end of the school year, the class must comply with the statutory limit.

Who will be at the appeal hearing?

- You and your partner, or a friend, or supporter
- The Appeal Panel (consisting of three members)
- The Clerk to the Appeal Panel
- Representatives from the Governing Body and School

The Code of Practice does not envisage children attending appeal hearings as the appeal is an opportunity for you to put across your case on behalf of your child.

What sort of information should I provide?

You are responsible for presenting your case, for deciding what you would like to say at the appeal hearing, and what written documentation you want the Appeal Panel to have.

- If your case is based on medical or social grounds you should provide written evidence from a doctor or other professional to support this. This evidence must relate to how the school can meet those specific needs.
- If your case is based on a house move you should provide evidence of confirmation of the completion of your house purchase, or a tenancy agreement, or any other relevant documentation
- You should also put forward any letters, written reports or documentation or other evidence relevant to your case
- You must not supply letters of support from your child's primary school. The School Admissions Appeals Code states that "*Parents **must not** allow representatives of schools to support individual appeals for places at their schools at the hearing itself or by providing letters of support for appellants, because of possible conflicts of interest and the possibility of unfairness to other appellants*".
- Written documentation should be submitted 7 days prior to the appeal.

What if my child has a Statement of Special Educational Need?

If your child has a Statement of Special Educational Need your right of appeal is through an independent Special Educational Needs Tribunal, not a School Admission Appeal.

Who can help me prepare for my appeal?

In the first instance, please contact the Clerk to the Appeal Panel who can help you with any queries or concerns you may have, but the Clerk cannot prepare your case for you.

The Advisory Centre for Education (ACE) is an independent national education advice centre which provides information on the education system. ACE produce a booklet "Appealing for a School", which provides advice on the appeals system and also gives advice on what to do if your appeal is unsuccessful. ACE can be contacted on freephone 0808 800 5793.

ANNEX 1

- (a) children with statements of special educational needs who are admitted to the school outside the normal admission round;
- (b) children moving into the area outside the normal admissions round for whom there is no other available school within a reasonable distance (the regulations require that admission authorities must check with local authorities before determining that a child falls into this category);
- (c) children admitted after the initial allocation of places because the person responsible for making the decision recognizes that an error was made implementing the school's admission arrangements and a place ought to have been offered;
- (d) looked after children admitted outside the normal admissions round;
- (e) children admitted where an independent appeal panel upholds an appeal on the grounds that the child would have been offered a place if the admission arrangements had been properly implemented, and/or the admission authority's decision to refuse a place was not one which a reasonable admission authority would have made;
- (f) children who are registered pupils at special schools and who, by arrangement with another school which is not a special school, received part of their education at that other school;
- (g) children with special educational needs who are registered pupils at a school which is not a special school and are normally educated in a special educational needs unit attached to that school, and attend an infant class in the mainstream school (i.e. not in the unit) where this has been deemed as beneficial to the child).

In the case of (f) and (g), the child will remain an exception for **any** time they spend in an infant class at the mainstream school or outside the special unit. However in **all** other circumstances the child will only remain an exception for the remainder of the school year in which they are admitted. Measures **must** be taken the following year to ensure the class falls within the infant class limit.