

**ADMISSION APPEALS FOR VOLUNTARY AIDED SCHOOLS**

## NOTES FOR GOVERNORS AND HEADS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**NB THESE NOTES APPLY TO APPEALS HEARD FROM 1 FEBRUARY 2012**

**(The DfE School Admissions Appeals Code 2012 refers)**

**The Appeal Process**

An appeal against refusal of a place at a particular school is made in writing in the first instance to the Chairman of Governors who will then ask the Diocesan Appeals Officer to arrange an appeal hearing before an independent panel of people. An appeal hearing gives parents the opportunity to present to this panel the case for their child being admitted to the school despite the relevant age/year group already being “full” according to the published admission number. Having heard the case, it is within the power of an appeal panel to override the governors’ decision to refuse a place, except in circumstances relating to infant class size prejudice (see below).

# Appeal Hearings

Appeal hearings are private, confidential and independent of the school, governors and Local Authority (LA) and should normally be arranged within 30 or 40 school days of being made (full details are in the School Admission Appeals Code 2012 para 2.3). The appeal panel usually consists of 3 members. A representative of the school governors and the appeals clerk will also be present at the hearing. Neither parents nor the governors’ representative will be alone with the appeal panel at any time. More than one appeal may be heard at the same session but, although the governors’ case may be presented at the same time to all parents requesting places for a particular age/year group, each individual case is heard separately and in private. Appeal hearings will normally be held at Diocesan Church House; however where there is a large number of appeals for one school, (over 6), these may be heard locally if suitable facilities are available.

#### Action Required by the School

When a place has been refused to a child, the LA or the governors **must** make it clear to parents on what grounds this decision has been made; information about the right to appeal, the deadline for lodging an appeal and the contact details for making an appeal. Parents **must** be informed that if they wish to appeal, they have to set out their grounds for appeal in writing. Admission authorities **must not** limit the ground on which an appeal can be made (para 2.5 SAAC). This is particularly important if refusal is on the grounds of infant class size prejudice in KS1 classes, as the appeal panel’s ability to override this decision is very restricted, and a different kind of hearing is needed.

The Chairman then notifies the appeals officer of the need for a hearing, and sends copies of the appeal form, together with all correspondence between parents and school, a comprehensive statement[[1]](#footnote-1) of the governors’ case for refusal of a place and all supporting documents (as listed below). These documents, circulated in advance of the hearing by the appeals officer to panel, clerk and parents, form the basis on which the appeals panel makes its decision. At the hearing the governors' representative speaks from these documents, assuming that all other parties have read and understood them, and **must be able to answer any questions raised by the panel or parents arising from these documents or in relation to the school.**

**It is essential that the Presenting Governor is familiar with the school and understands the appeal documents.** **The onus is on the governing body to submit their case comprehensively in advance of the hearing, with all the written evidence they wish the panel to consider**.

##### School documents must include:-

* admission policy;
* PAN and current numbers on roll for all year groups;
* number of children offered and the number refused admission under each criterion of the admission policy including details from the local authority (LA) - not names of children, as this is confidential information;
* information about buildings, physical features; room sizes supported by a plan with key areas highlighted*; remember that the panel are not familiar with your school.*
* class size and organisation as relevant to the case that the governors wish to make;
* Net Capacity Assessment summary sheet; *not mentioned in SAAC 2012 but how else would you evidence numbers/capacity?*
* number of pupils on roll each year group;
* numbers of teaching & non-teaching staff with details of hours worked if not full time and to which class they are appointed;
* number of children with special needs per class, it is helpful to include children who need any additional support and what support all these children have, ie LSAs and the hours worked in the class. *How does this impact on the rest of the class, space etc?*
* map(s) showing the catchment area, ecclesiastical boundaries, neighbouring schools and any other useful information, with home addresses and distances (if relevant) of the children marked[[2]](#footnote-2);
* any letters or information about admissions sent to parents or prospective parents (including those sent from the LA on behalf of the governors);
* a full written statement[[3]](#footnote-3) summarising how admission arrangements apply to the parents’ application, (ie action by governors and the LA);
* details of the LA in-year Fair Access Protocol where applicable;
* a copy of the co-ordinated admissions scheme (where this is relevant).

### **Documents concerning individual children** (please keep separate from school information) **must include:-**

* copy of the refusal letter from the LA or the governors stating full reasons for refusal in accordance with admissions criteria;
* information whether another place has been offered, as identified under the co-ordinated scheme;
* statement from the LA explaining how the co-ordinated admissions scheme was applied;
* copy of the Common Application Form;
* copy of the supplementary information form, if applicable;
* appeal form, completed, signed and dated by parents;
* copies of all correspondence and notes of any conversations/telephone calls between school, LA and parents about admission;
* details of how admission arrangements apply to the child;
* a written statement summarising the reasons for the decision to refuse a place, explaining how admission of an additional of an extra child would cause prejudice to the provision of efficient education or use of resources (“normal” prejudice) or making it clear that to admit a child on the grounds that the admission of an additional child would breach the **infant class size limit** and there are no measures it could take to avoid this without prejudicing the provision of efficient education or efficient use of resources;
* any written supportive evidence submitted by parents.

Copies of these documents, plus any sent directly by parents, will be sent by the appeals officer to members of the panel so that all parties have the same papers. School documents should reach her **well before** the agreed date of the hearing in order to meet statutory requirements for notice (parents must be given at least 10 school days’ notice of the date and receive the written documents at least 6 clear working days before the hearing – full details in Section 2 of the School Admission Appeals Code). In order for the appeal process to run smoothly with the minimum of delay, all the copying should be done by the school and then sent to the Appeals Officer. There should be **5** copies of each (panel, clerk + diocese) **plus 1 for each appellant (6 in total),** of documents concerned with the governors' case, and **6** copies of each document about individual children. Schools need to retain an additional complete set of papers for the presenting governor. **Arrangements for the appeal cannot be made until copies of all the required documents have been sent by the school to the Diocese.**

## There are two different kinds of hearing depending on the grounds on which the place has been refused

## (i) Prejudice to efficient education – Key Stage 1 classes below 30, and all other year groups

## (ii) Infant class size prejudice – classes in Key Stage 1 with 30 pupils

## (i) Appeals against a decision to refuse a place on grounds of prejudice to efficient provision of education or use of resources

The hearing normally takes place in two separate stages. The first stage considers the general case of the governors that to admit any more children to the year group would “prejudice the provision of efficient education and/or the efficient use of resources”, the published admission number having been reached. If the panel agrees that this is the case a second, balancing stage is carried out when parents are able to put their own individual case for admitting a child over and above this number, and the panel can either uphold or refuse this case.

**Stage one** *(about 30 minutes)*

The governors’ representative presents the case that the published admissions arrangements have been correctly applied (including the co-ordinated admissions arrangements); the relevant age/year group in the school is full to the published admissions number; and that to admit further children would prejudice the provision of efficient education and/or the use of resources. All parents appealing for places may attend this stage and ask questions about the general principles, **not** about individual cases at this stage. After hearing the governors’ case, and asking questions, the panel members decide in private whether or not they agree with it. If the governor is able to satisfy the appeal panel there would be prejudice, the hearing moves to the next stage. If the panel decides that the case has not been proved, then all the children *could* be admitted to the school.

**Stage two** *(about 20-30 minutes)*

This stage is repeated for each individual appeal, and enables parents to present their own case in private while other parents withdraw. The governors’ representative explains why a place is being refused for the child, based on the school’s published admission criteria. The parents and the panel may question this. Parents are then asked to explain why they believe their particular case is strong enough to outweigh any prejudice to the school. They will be given the time needed to present their case fully, and they will then be questioned by the panel and the governors’ representative. The hearing may be adjourned if the panel feels that further information is needed. Finally both the governors’ representative and the parents are given the opportunity to make concluding remarks.

**(ii) Appeals against a decision to refuse a place on grounds of infant class size prejudice in KS1 classes**

Statutory limits on class sizes provide that, subject to certain limited exceptions, infant classes of 5, 6 and 7 year olds may not contain more than 30 pupils with a single qualified teacher. These exceptions include:

* Children with statements of special educational needs admitted after the normal admissions round;
* Children admitted after initial allocation of places on the local offer date, because the person responsible for making the original decision recognises that an error was made in implementing the school’s admission arrangements and that a place should have been offered;
* Children looked after by a local authority (within the meaning of section 22(1) of the Children Act 1989(b) admitted outside the normal admissions round;
* Children previously looked after by a local authority but now adopted (under section 46 of the Adoption & Children Act 2002 c38) admitted outside the normal admissions round;
* Children admitted to a school outside a normal admission round by virtue of a determination of an appeal panel;
* Children whose parent is in the armed forces and who is admitted to the school outside the normal admission round;
* Children whose twin or other sibling from a multiple birth is admitted in the same age group otherwise than as an excepted pupil;
* Children moving into the area outside the normal admission round for whom there is no other available school which provides suitable education and is within a *reasonable distance* (a child is not an excepted child under this category unless the local authority who maintain the school have confirmed in writing that they are satisfied the child fulfils the criteria listed in the School Admissions (Infant Class Sizes) (England) Regulations 2012;
* Where a child has been refused admission to a school on the grounds that prejudice to efficient education or the efficient use of resources would arise by reason of the measures required to keep to the statutory class size limit (‘class size prejudice’), an appeal panel must offer a place to a child only where it is satisfied either:(a) the child would have been offered a place if the admission arrangements had been properly implemented; (b) the child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admissions Code and the SSFA 1998 and/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 panel will follow the process as laid out in the School Admission Appeals Code 2012 for Infant Class Size appeals.

In order for a panel to determine that an admission authority’s decision to refuse admission was unreasonable, it will need to be satisfied that the decision to refuse to admit the particular 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.”

**Decisions of panel and notification to parents/school**

Immediately following the hearing(s) the panel will discuss all the information presented and make a decision. Parents and school will be informed of this by first class post within 5 school days from the hearing. However with multiple appeals decision letters will take a maximum of 10 school days from the last appeal hearing. The panel’s decision is final and binding on all parties.

Legislation governing **appeals heard after 1 February 2012** is published in the School Admissions Code 2012 and School Admission Appeals Code 2012\*; both available on the DFE website: [www.education.gov.uk](http://www.education.gov.uk)

There is no further right of appeal in law (only the courts can overturn an appeal panel’s decision). However, the Local Government Ombudsman[[4]](#footnote-4) can investigate written complaints from parents about maladministration on the part of an admission authority or an appeal panel. This is not a right of appeal and has to relate to issues such as a failure to follow correct procedures or a failure to act independently and fairly rather than just that the person making the complaint thinks the decision is wrong.

These notes are intended as a guide and should be used in conjunction with the School Admission Appeals Code 2012 and School Admissions Code 2012.

*For further information please contact Christine Jones, Admissions & Appeals Officer, Diocesan Church House, North Hinksey, Oxford. OX2 0NB : Telephone: 01865 208279; e-mail:* [*christine.jones@oxford.anglican.org*](mailto:christine.jones@oxford.anglican.org)

ADVICE FOR PARENTS

A ‘Guide for Parents’ is available from the Admissions & Appeals Officer and is included in the pack sent to each appellant prior to their appeal.

ace\*(The Advisory Centre for Education) produce a useful guide for parents and is available to download from their website at: [www.ace-ed.org.uk/Resources/ACE/Appealing-Feb2012](http://www.ace-ed.org.uk/Resources/ACE/Appealing-Feb2012) This would be a useful document to either give to, or direct parents towards.

1. If required you may find it helpful to refer to additional notes which are available from Christine Jones, Admissions & Appeals Officer at Church House Oxford, to assist with your Statement (contact details at end of this document) [↑](#footnote-ref-1)
2. In multiple appeals, panel, clerk and appeal officer need to see maps with all appellants addresses marked, however for confidentiality appellants must only have maps with their own addresses shown. [↑](#footnote-ref-2)
3. Even with ICS appeals admission authorities need to *prove* that the school is ‘full’. [↑](#footnote-ref-3)
4. Complaints from parents about maladministration on the part of an academy or appeal panel set up for an academy will be investigated by the Academies Central unit, Education Funding Agency. [↑](#footnote-ref-4)