



Appealing for a school

A practical guide to parents' legal rights



If your child has a statement of special educational needs this appeals procedure does not apply. (*see page 15*)

What does it mean?

Here are some common education words and jargon.

In this booklet:

- **must** means the law says that this has to happen.
- **should** means the Government has said they expect this to happen (published in guidance or codes)

Other things you should know

The **Local Authority (LA)** deals with the administration of a local council. The education department may be part of the LA's children's services authority or trust. Its admissions section is responsible for co-ordinating school admissions in the area. In England they have a legal duty to provide advice and help to parents choosing and applying for a school. They may employ **Choice Advisers** to do this.

The **governing body**, with the headteacher, has overall responsibility for the school. The governors work for the school unpaid.

The **admission authority** is the official body which decides the rules on how children will get a place at the school and who is offered a place. Different types of school have different admission authorities.

Community and voluntary controlled schools - the local authority is the admission authority.

Voluntary aided, foundation and trust schools, academies and city technology colleges - the governing body is the admission authority.

Appeals

The **appeal panel** is a group of 3 or 5 people who decide whether a child who has already been refused a place by the admission authority should be given a place. They must receive appropriate training. There are strict legal rules about who can be a member of a panel. For example, a governor of the school or local councillor cannot be a panel member.

If your child has been **permanently excluded twice** and is refused a school place you may not be able to appeal. If your child has **challenging behaviour** an admission authority may refuse a school place in very limited circumstances, but you can still appeal. If their behaviour is related to a disability you may be able to claim disability discrimination. In both these cases you should take further advice (*see page 15*).

An **unreasonable decision** by an admission authority is a decision which is not rational in terms of its legal responsibilities or not based on the facts.

Infant class size appeals are when a school place has been refused for an infant class (reception or years 1 or 2) on the grounds that the school cannot take more than the legal limit of 30 pupils in that class. It is more difficult to win these appeals than other admission appeals (*see page 12*).

Prejudice to the efficient education or efficient use of resources means there will be an adverse effect upon the education/resources provided by the school if they have to admit another child, i.e. it is full.

My child has been turned down for the school that I applied for

What can I do?

This can be an upsetting time for you and your child. Parents often feel very angry and let down and children are worried about their future. You have a right to explain to an appeal panel (*see page 2*) why your child should go to the school. School appeals must be carried out in accordance with the School Admission Appeals Code (*see page 15*).

This booklet explains, step by step, how to put your reasons to the panel.

Step 1: Send back the form

The letter telling you that your child has been turned down for a school must say why your application was unsuccessful and that you can ask an appeal panel to give your child a place at that school. This is known as an admission appeal. The timing of your application does not affect your right to make an appeal. You can appeal even if you have already accepted another school and you can appeal for more than one school. The letter may include an appeal form. If there is no form send a letter (*see page 4*).

Send the form or your letter as quickly as possible but remember:

- if you have missed the deadline, you can generally still appeal
- you do not need to write out your whole case now; do not delay too long; just say you want to appeal and give as many reasons as you can.

Send your letter to:

- the local authority, for community and controlled schools (*see page 2*)
- the school itself, for all others (*see page 2*)

To: the Appeal Panel
c/o The Local Authority (for community and controlled schools) or
c/o The Chair of school governors (for all other schools)
Date

Dear Sir / Madam

I wish to appeal against the decision not to give my child [name] a place at [name of school].

If you have an official form on which I should write my appeal, please send it to me as soon as possible.

My grounds for appeal are:

[Outline as many of your reasons as possible]

Yours faithfully,
Parent

Step 2: What happens next?

When your appeal is heard depends on when you applied:

Type/date of application	Time of hearing
On-time secondary school application <i>(i.e. decision sent on national offer day)</i>	By 6th July
On-time primary school application	Within 30 school days of the closing date for lodging appeals
All late applications	With on-time applications if possible, or within 30 school days of lodging the appeal
In-year applications	Within 30 school days of lodging the appeal

You must be given **10 school days** to send in your written appeal. You can put forward whatever case you choose in your appeal, except for infant class size appeals, where there are limited reasons for upholding an appeal (*see page 5*).

You must be told in writing of the date of your appeal hearing at least **10 school days** before it is held, unless you have agreed in writing to a shorter time. If you fail or are unable to attend, and it is not practical to offer you another date, the appeal will be decided on the written information sent in.

You must also be told to send in your evidence, and that you may submit additional information any time up to the hearing, but that if this is done too late, the hearing may need to be adjourned to allow time for it to be considered.

For an **infant class size appeal** hearing (*see page 2*), the limited grounds on which these appeals may be upheld must be explained. If it is not clear that the appeal is on infant class size, you must be told to prepare for both an infant class size appeal and the broader two stage appeal (*see page 11*).

At least **7 working days** before the hearing, you must be sent all the appeal papers and at least **3 working days** before the hearing, you must be given details of the panel members and clerk, all the information you have reasonably asked for, and details of any witnesses who will give evidence.

You may be invited to meet an admission authority representative before the hearing, but this is not an appeal.

Step 3: What will the panel look at?

In simple terms, for most appeals the panel will check whether the admission rules were followed properly and if the school could take extra pupils.

The panel should also consider the problems faced by your child if they do not go to this school and the problems faced by the school if they have to take an extra child.

If your application was refused because of the infant class size limit of 30, the panel can only look at if the admission rules were wrongly applied in your case and/or if it was unreasonable to refuse your application. (*see page 12*).

In law “unreasonable” has a very narrow meaning so it is very difficult to win these appeals (*see page 2*).

Steps 4 - 12 will help you put together your case.

ACE advises

The class size limit is a strict legal one and panels rarely admit more than 30 children. Generally new evidence to support the application will not be allowed at an infant class size appeal unless it is to show that the admission authority behaved unreasonably or made a mistake.

Step 4: Check the rules

There are rules about how places at each school are given to pupils. Each school has its own admission rules which can change from year to year. They are generally called the admission criteria or the oversubscription criteria and must be in the local authority guide or prospectus to local schools. Ask your LA admissions department for a guide immediately.

Remember, for most schools, the rules are only used to choose between pupils if too many have applied for the number of places. So, if 50 pupils apply for a school with 40 places, the rules will be used to decide which 40 pupils get a place, i.e. those pupils who best meet the rules.

Schools which select all their pupils on academic grounds may refuse your application if your child has not been able to meet the school's selection criteria, even if the school is not full.

Faith schools may give priority to children of the same faith as the school but, may also have rules which allow children of other faiths and denominations or just children in the local community to get places.

Whilst taking account of any selection and faith criteria, schools must give priority to looked after children (children in public care).

Other criteria could involve the measurement of distance from the school, medical/social reasons or having a brother or sister at the school.

Look at the admission rules carefully and ask yourself: Have the rules been followed properly?

Step 5: The rules haven't been followed

In most cases the rules are followed, but mistakes can be made. If you think a mistake has been made, contact the admission authority (*see page 2*).

If they agree with you - usually your child will be able to go to the school even if it is full.

If they don't agree – write down why you think they are wrong. When you receive the appeal papers (*see page 5*), if you do not agree with what is said, write down your reasons.

I do not think the admission rules have been followed because...

This is the beginning of your case.

Step 6: My child has been discriminated against

If your child has a disability and you feel the admission authority has discriminated against your child, for example by treating your application differently than for other children, or refusing to accept it, you may be able to claim disability discrimination. (*see page 15*).

If you think your child has been treated less fairly because of their race, your views should be part of your case. Write down why you think discrimination has taken place.

I think my child has been discriminated against because...

Step 7: Is the school full?

Schools have a set number of places to be filled. This is called the admission number. You will find this in the LA admission prospectus for schools in its area. Unless the school is a fully selective school, all these places must be filled before a child can be turned down.

So your child has been turned down because the school is full. Another child in the school would mean larger classes which stretch teachers, books, equipment and often space. For infant classes another child would mean that the legal limit of 30 pupils would be broken either this year or in the future, for example, if small infant classes merge in Years 1 and 2. In the

information sent to you before the appeal, there will probably be school details – number of staff, size of rooms etc. Think about the physical space and layout of the school. Ask if the school has any plans to create extra space by building an extension or utilising classrooms in a different way. Does this show that the school can't take an extra pupil or has met the infant class limit? If not, add:

The school cannot claim that it is full because...

Try to find out how many appeals were successful last year. This might mean that the school could cope with extra pupils.

I believe that the school could take an extra pupil because...

Step 8: About your child

Write a bit about your child, imagine you are describing them to a stranger. Think carefully. Write down in detail how each point affects your child in school and at home. **Do not expect the appeal panel to guess.**

If you are applying for a school during the school year and your child is a vulnerable child they may be covered by your LA's "In-Year Fair Access Protocols", which may help them get a place. Ask your LA for a copy.

Points about your child that could fit with why this school is needed:

- What is your child good at?
- What does your child like to do?
- Any health problems now or in the early years?
- Any social problems – shyness, victim of bullying?
- Any family problems?
- Any emotional problems – anxiety, low self esteem?
- Any difficulties with learning, special educational needs or a disability?
- Any problems at school?
- Have any recent changes affected your child?

My child is...

Step 9: Why my child must go to this school

It is very important to think of all the issues that show how only the school you are appealing for can meet your child's needs.

It is best to split this into two parts:

1. Why this school would be good for your child *and*
2. Why it would be difficult for your child if they did not go to this school.

This school would be good for my child because...

List all the positive points about the school that you have found from your visit, school prospectus, school website and Ofsted report. For example:

- it has a good anti-bullying policy
- it has good sports facilities
- my child really liked the school
- most of my child's friends go there
- it is very close to where we live
- it is a very easy journey
- it is a mixed school or a single sex school
- most of our community goes there
- it teaches three modern languages or single sciences, etc.

Explain in detail why each point is so important for your child.

If my child does not go to this school I am very worried that...

Explain what may happen. Show how your child will be affected at home and in school. If there are strong family reasons for needing this school and no other, include them here. Again, do not expect the panel to guess. Remember, problems affect different children in different ways.

Step 10: Other schools

It is very important that you look carefully at all other schools with places. Visit them with your child. If you think that going to the other schools would cause your child problems, add the reasons to your case. If the journey would be particularly difficult, explain why. Do not just give general negative views of the school. Schools often get a bad name unfairly.

Also different schools suit different children. ACE advises parents to find out for themselves – don't just take the word of others.

If my child had to go to another school I am worried that ...
List all the problems your child will face. Again, explain the effects.

Step 11: Proof

Look at your whole case and think about how you can prove your points. This is very important.

- Have you any reports that back up your case?
- Will anyone independent, like a doctor, send a letter that agrees with you?
- Will anyone like a youth worker or playgroup worker come as your witness to support certain points at the appeal meeting?
- Does the school profile, school prospectus, inspection reports or any school policies help support your case?
- Generally in infant class size appeals, new evidence that was not part of your application is not allowed, unless it shows that the admission authority acted unreasonably or made a mistake.

Step 12: Your case

Now type or write out your whole case (*see page 11*).

Send it to the panel, along with all your proof, and/or take copies of everything with you to the appeal hearing.

You can take someone with you to the appeal hearing. This could be a friend, adviser or legal representative. You should inform the clerk in advance of the meeting if you will be accompanied or represented.

If you need a translator or signer contact the clerk. The admission authority must make and fund the necessary arrangements.

Appeal for admission to [give name of school]
for [give name and date of birth of your child]

I very much want my child to be a pupil at this school. I believe it will be best for my child's education and welfare.

Now add all the points that fit your own case:

- I do not think the admission rules have been followed because ...If this is the case - see step 5
- I believe my child has been discriminated against because ...If this is the case - see step 6
- The school cannot claim it is full because...
If this is the case - see step 7
- I believe that the school could take an extra pupil...If this is the case - see step 7
- My child is...Describe your child - see step 8
- This school would be good for my child because...Give your reasons - see step 9
- If my child does not go to this school I am worried that...Explain what may happen - see step 9
- If my child had to go to another school, I am worried that...Explain what may happen - see step 10

Step 13: At the hearing

Generally there will be three people on the panel, who can ask questions whenever they wish, plus a clerk to take notes.

For all non-infant class size appeals the panel must consider cases in two stages.

Stage 1 - establishing the **facts**:

- were the admission arrangements correctly applied to your child?
- if not, would they have been admitted if they had been applied properly?
- would the school be 'prejudiced' if your child were admitted? (*see page2*)

Stage 2 - balancing the arguments:

- the degree of prejudice to the school if your child were admitted **against**
- how your child would be prejudiced if not admitted.

For **infant class size appeals** the panel is more limited. The panel will consider:

- if the place was refused in error and/or,
- if the decision to refuse admission was unreasonable (*see page 2*).

In reaching its decision, the panel must take into account all relevant circumstances, including:

- the published admission arrangements
- your stated preference
- your family's and your child's particular circumstances
- the practical consequences for the school if your appeal was successful.

The panel are limited generally to only considering material that was available to the admission authority at the time it made its decision.

How the admission appeal hearing is conducted will depend on whether your appeal is heard on its own (single appeal) or with other appeals (multiple appeals):

For **single appeals** your whole appeal will be heard in private.

For **multiple appeals** the authority's case for claiming prejudice may either be heard in private, as for a single appeal, or there may be a joint first stage for all appeals being heard at the time.

There is then a private hearing, when you can put forward your points about the admission arrangements and prejudice and how they affect your individual child.

The usual **order of the hearing** is as follows:

A representative from the admission authority will explain why your application was refused and try to show that the rules have been applied properly.

Sometimes a headteacher or governor will add information about the school – its size, how many teachers etc. This is to show how difficult it will be if more children attend. They should not bring new information that you do not know about. Make notes about anything that you want to query. You can then ask questions.

Next you put your case. Parents can be tense and upset at these hearings. If you read out your case you will not forget any points. Anyone who has come with you can then add their points if the panel agrees. It is not normally necessary for your child to come with you.

After reading out your case, hand it to the panel and others in the room.

The admission authority representative may then ask you questions.

At the end of the hearing the representative and then you can sum up. This means bringing together the main points that you have already made.

The meeting must be fair. Put your case as you wish. If you forget something, ask if you can add it. If you do not understand anything that is said, ask for it to be explained.

Step 14: The panel decides

The panel then makes its decision. No parties or witnesses are present for this part of the hearing.

For most appeals, in legal terms, the appeal panel must take into account parental preference, arrangements for admissions, including selection, and prejudice in the provision of efficient education and use of resources and the circumstances of the particular child and family.

For non-infant class size appeals this means you will probably win your case if the panel decides:

1. that the rules have not been followed, *or*
2. that the school can cope with an extra pupil, *or*
3. that the problems your child will face if they do not go to the school will be greater than the problems faced by the school if they have to admit an extra pupil.

But for appeals affected by the infant class size limit of 30, you will only win your case if the panel decides:

1. your child was turned down wrongly because the admission rules were not followed properly, *and/or*
2. it was unreasonable in the legal sense (*see page 2*) to refuse your application.

If you win your case your child must be offered a place.

Step 15: Notification of the decision

You will be told the panel's decision by letter. The letter should be sent as soon as possible and ideally within 5 working days, although this may not be possible when there are multiple appeals for one school.

The letter must give clear and detailed reasons for the panel's decision.

ACE advises

If your appeal is unsuccessful

- Only about a third of parents win their appeal, so try not to be too negative about other schools when you talk to your child.
- You could ask that your child is put on a waiting list but children can move down waiting lists if others apply to the school who have greater priority.
- If you are not successful, you do not have to send your child to any school allocated to you, but you must make sure that your child is at a school or taught at home.
- If your situation changes significantly you may be able to reapply, and if refused, to appeal again.
- If you feel that the appeal was unfairly run, you may be able to take this further by complaining to the Local Government Ombudsman (LGO) about maladministration. The LGO cannot overrule the panel's decision but can recommend a new appeal. This may not change the situation for your child.
- Parents sometimes hear of a case "just like ours" that was successful, but remember all cases are different.

Further help

More help on appealing for a school

From the Advisory Centre for Education (ACE):

Text ADMISSIONS to 68808

Free advice on ACE's advice line - 0808 800 0327 and from
www.ace-ed.org.uk

Special Education Handbook covers appealing to SENDIST for a school for a child with a statement of SEN. Available to order from www.ace-ed.org.uk or phone 020 7704 3370.

From the Department for Children, Schools and Families:

Schools Admission Appeals Code

Schools Admissions Code

Free to download from www.dcsf.gov.uk/sacode

Printed copies from The Stationery Office. www.tsoshop.co.uk

Appeals Code £8; Admissions Code £16.

From the Equality and Human Rights Commission:

www.equalityhumanrights.com

Code of Practice on the Duty to Promote Race Equality

0845 604 6610

Code of Practice on the Duty to Promote Disability Equality

08457 622 633

The Local Government Ombudsman:

www.lgo.org.uk

0845 602 1983

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