

THE PROCEDURE FOR HEARING APPEALS 2016



These are intended to give you additional guidance so that you will be aware of what to expect and enable you to get the most from your Appeal Hearing appointment. It also explains how the panel reaches a decision based on the Admissions Appeals Codes of Practice 2014.

- ❖ Please arrive at the venue at least 10 minutes before your scheduled appointment and report to Reception
- ❖ When it is time for your appeal hearing, the Clerk and the School's Representative will greet you, and explain the process to be followed - most of which is also repeated in these notes. They will escort you to the Appeal Panel room.
- ❖ The Clerk and School's Representative will be present during the Hearing but DO NOT take part in the decision making. The Clerk is there as an independent source of advice on procedure and admissions law and the School's Representative is there to answer any questions regarding the School's Case.
- ❖ The Appeal Panel comprises three people, totally independent of the School, who have been trained to carry out this type of Appeal Hearing.

PROCESS:

- ❖ The Chair will introduce him/her self and others in the room and explain the procedure to be followed. He/she may ask one of the other panel members to lead the appeal. You will be asked to confirm that you have received the pack containing the reasons why your child has been refused a school place and the Panel will confirm that they have received all of your submitted paperwork
- ❖ The School's Representative will present the School's Case. The Panel and you can ask questions of the case
- ❖ You will be given an opportunity to explain your reasons for appealing and to explain any special circumstances you want the Appeal Panel to take into account. The Appeal Panel may ask you questions on your case to help their understanding as can the School's Representative. Finally, the School's Representative may add any closing comments before you are asked to sum up your case.
- ❖ The Appeal Hearing will be allocated a time of 20 minutes. This is a guideline of the time that you should be prepared to submit your case to the Panel. However, you will be given as much time as you feel you need to ensure that you have presented your case to your satisfaction. The Appeal Panel will be as informal as they can in order to make it as easy as possible for you to present your case.
- ❖ At the end of the Hearing, you will leave the room with the School's Representative so that the Panel can discuss your case and reach a decision. The Clerk will then return any evidence you have brought to the Appeal to you whilst you are waiting and, after this, you are free to leave the building.
- ❖ The decision of Panel cannot be given to you at the end of the Appeal Hearing but the Clerk will write to you within 5 school days of the last appeal hearing for that particular school with the decision. The Panel's decision is binding on the school and the Governing Body of the school.

DECISION:

Legislation introduced in 2001 stipulates that infant class sizes (Reception, Year 1 or Year 2) cannot have more than 30 pupils. The Local Authority therefore may refuse to admit a child to an infant class.

In these circumstances the powers of the Appeal Panel are extremely limited and an appeal may only be allowed if any of the following criteria apply:

- a) The Local Authority's admission policy had not been properly implemented in your case and if it had been your child would have been offered a place at your preferred school
- b) The admission policy of the Local Authority were unlawful and your child would have been offered a place if the policy was applied lawfully
- c) The decision to refuse admission was 'unreasonable' in the circumstances of the case.
- d) The school admission appeals code states that to find a decision 'unreasonable', it must be:

"perverse in the light of the admission arrangements" or the decision was:

"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."

Appeals for all other year groups, the Panel makes the decision according to the two stage decision making process:

First Stage – Examining the decision to refuse admission:

- Whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admission Code and Part 3 of the School Standard and Framework Act 1998; and
- Whether the admission arrangements were correctly and impartially applied in the case in question.
- The Panel must then decide whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources

The Panel must uphold the appeal at the first stage if it finds that the admission arrangements did not comply or if the admission of additional children would not cause prejudice as stated in the above points.

Second Stage – balancing the arguments

The panel must balance the prejudice to the school against the appellant's case for the child to be admitted to the school. It must take into account the appellants reasons for expressing a preference for the school, including what the school can offer the child that the allocated school cannot. If the panel considers that the appellant's case outweighs the prejudice to the school, it must uphold the appeal. The panel must also give due consideration to prejudice and consider the Planned Admission Number for the school but the school must also be able to demonstrate prejudice over and above the fact that the published admission number has already been reached. Further information regarding prejudice can be found in 3.10 of the Appeals Code of Practice 2012.