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Guidance

Advice for parents and guardians on school admission appeals

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Introduction

This advice is for parents who applied for a place at a school that was refused and may be considering appealing the decision.

It provides information about:

- what you should consider before making the decision to appeal
- how you can exercise your right of appeal
- what you can expect at each stage of the appeals process

We have based this advice on our statutory guidance:

- School Admissions Code (<https://www.gov.uk/government/publications/school-admissions-code--2>)
- School Admission Appeals Code (<https://www.gov.uk/government/publications/school-admissions-appeals-code>)

These documents set out the legal requirements which admission authorities, appeal panels and clerks must follow.

You may be able to get further advice on the appeals process from the Child Law Advice centre (<https://childlawadvice.org.uk/>).

Your right of appeal

If you've applied to a school and it does not offer your child a place, you have the right to appeal this decision.

If you or your child applied to a school sixth form and it does not offer your child a place, both you and your child can appeal the decision.

You can only appeal once for a place in the same school in the same academic year.

However, if an admission authority accepts a second application from you because there has been a significant change in circumstances but again decides not to offer your child a place, you can appeal this second decision.

If you have been offered a school place but it's not in the year group you would like, you would not have the right to appeal this decision. However, you may make a complaint about this decision through the admission authority's formal complaints procedure.

Education, Health & Care plan

If your child has an Education, Health and Care plan (<https://www.gov.uk/children-with-special-educational-needs/extra-SEN-help>) that names a school and that school is refusing admission, you should speak to the local council that issued the plan. The appeals process described in this guidance is not relevant in these circumstances.

Things to consider before you appeal

There are things you need to consider before you make a school admission appeal. You will have to set your appeal out in writing and attend an appeal hearing.

You should be aware that an appeal can prolong the period of uncertainty for parents and children, so it's important to be realistic about your reasons for appealing and the chances of being successful.

This is particularly the case if you're appealing a decision refusing your child a place to an infant class (such as reception, year 1 and year 2), where the law prevents a school from admitting more than 30 pupils per teacher, other than in specific exceptional circumstances. As such, there are limited circumstances in which an appeal panel can uphold an infant class appeal.

You should also consider accepting any offer of a school place you receive to ensure that your child has a place should your appeal not be successful. Accepting another offer will have no bearing on your appeal and the appeals process does not limit other options available to you.

Before you make an appeal it will also be helpful for you to understand how the school allocated their places, so you can understand why your child did not get a place. A school's admission arrangements can be found on the school's or council's website.

How schools allocate places

Parents and guardians are able to make choices as to which school they would like their child to attend. Where possible, parents will be offered a place at a school of their choice. However, this may not always be possible because some schools receive more applications than they have places available. Places will be offered to those who most closely meet the school's admissions criteria.

Admission arrangements for individual schools, including the admissions criteria, are set and applied locally. It's the role of the school's admission authority to decide what admissions criteria to set, as long as they comply with the School Admissions Code (<https://www.gov.uk/government/publications/school-admissions-code--2>).

Different types of schools have different admission authorities, for:

- community schools the admission authority is the local council
- voluntary controlled schools the admission authority is the local council
- foundation schools the admission authority is the governing body
- voluntary aided schools the admission authority is the governing body
- academies the admission authority is the academy trust

Academies and free schools are governed by charitable trusts, which are known as Academy Trusts.

When a school receives more applications from parents than it has places available, not every child can be successful in securing a school place. The admission authority will use its admissions criteria, also known as oversubscription criteria, to decide which children to allocate places to.

The admissions criteria sets out the order in which they will allocate places.

In the interest of fairness and transparency, admission authorities must allocate all places at their schools according to their published admissions criteria.

Information about a school, its admission authority and its admission arrangements can be found on the school's or local council's website.

Reasons for refusing admission

The appeals process can be burdensome for all involved, so admission authorities do not take lightly the decision to refuse a child a school place.

Your admission decision letter should give the reason why your child was refused a place at your choice of school. You can contact the admission authority for more details. Contact details of the school's admission authority should be on your admission decision letter.

In most cases your child will not have been offered a place because there were other children who more closely met the school's oversubscription criteria.

If you made an application outside the normal points of entry, typically at reception and year 7, it's likely that the school was not able to offer your child a place because the year group you applied for is full.

Your case for appeal

It's important that you clearly set out the reasons why your child should have a place at your choice of school in both your written appeal and at the appeal hearing.

You can make an appeal because you want your child to attend a particular school over any other, but the stronger your reasons the better chance you have of your appeal being successful.

For example, wanting your child to go to a particular school because it's the best in the area is not likely to convince the panel that your child should get a place at the school over another child.

You should focus on what the school can offer that meets your child's needs. This can include what the school can offer that other schools cannot and what the impact will be on your child in not attending the school of your choice.

You can also appeal if you believe that the admission authority did not apply their admission arrangements properly and if they had applied them properly, they would have offered your child a place at the school.

The appeals process

The admission decision letter informing you that your child was refused a place at your preferred school will:

- explain how you can appeal this decision
- tell you where to send your appeal to, and the deadline for appealing

You will need to submit your appeal in writing. If you believe there has been a mistake (for example, the admissions criteria have not been applied correctly) you should set out why the admission authority should have offered your child a place. Whether or not you believe there has been a mistake, you should explain why you believe the school should admit your child anyway.

You will usually appeal to the admission authority of the school. They should allow you at least 20 school days to write and send in your appeal.

If you cannot send all the information and supporting evidence you want to at the time you submit your appeal, it's important you send it before the deadline given by the admission authority.

This is because the appeals clerk needs to send it to the appeals panel and admission authority for them to consider before the hearing. If you submit anything after the deadline, panels can refuse to accept it as they may not have had time to consider it or it may delay your hearing.

Once you have submitted your appeal the admission authority will let you know the time, date and location of your appeal hearing. They will give you at least 10 school days' notice, unless you have told them that you do not need this much notice.

Who takes part in the appeal hearing?

There will usually be the following people at the appeal hearing:

The independent appeals clerk

They are responsible for all the administrative arrangements for the appeal. They will explain everything that will happen on the day of your appeal hearing and what will happen after your hearing. They will also be able to give you independent and impartial advice on the appeals process and admissions law.

The independent appeals panel

They make the decision on whether to uphold or dismiss your appeal. There are usually 3 people on the panel.

If the panel upholds your appeal the admission authority must offer your child a place at the school. If the panel does not uphold your appeal, then the admission authority will not offer your child a place at the school.

The presenting officer

They are a representative of the admission authority, usually referred to as the presenting officer. They will be there to present the school's case for why they refused your child a place at the school. There can be more than 1 representative at the hearing.

Appellant

This is you (parent or guardian). You must present the reasons why you believe the school should admit your child. You can be represented and you can take a friend, family member or someone else with you for support at the hearing. If you require an interpreter, you can request one.

If you or the school's presenting officer fail or are unable to attend, the appeal hearing may still go ahead. The appeal panel may make a decision based on the written evidence, unless it's practical to arrange an alternative date that you can attend.

What happens at an appeal hearing?

It's important you understand what will happen at an appeal hearing so that you can be prepared. First, the clerk or the chair of the panel will introduce everyone to the hearing. They will explain everything that will happen during and after your hearing.

The panel will then usually hear the appeal in 2 parts.

First, it will ask the presenting officer to present the admission authority's reasons for refusing to admit another child at the school. Then, the panel will ask you to present your reasons as to why you believe the school should admit your child.

Panels can decide to hear appeals in different ways. It can either:

1. Decide to hear both the admission authority's case for refusing admission (Part 1) and your case for appeal (Part 2) one after another and then make their decision on whether to uphold the appeal once the hearing has concluded.
2. Alternatively, the panel may choose to hear the admission authority's case first, and then break to make a decision on whether to uphold the appeal at this stage. If the panel do not uphold the appeal at this stage the appeal will then proceed to Part 2, and the panel will hear your case for appeal. The panel will then break to make their decision on whether to uphold the appeal.

Before the actual hearing, you will receive information about what will happen on the day.

Standard appeal hearings

This is an example of how an appeal hearing might be conducted where the panel hears the appeal in 2 separate parts.

If the admission authority refused your child a place under infant class size rules there is a separate procedure and decision making process for this.

Part 1 – The admission authority's case for refusing admission

The presenting officer will explain why the admission authority does not believe it can admit any more children. Along with the panel, this will also be your opportunity to ask questions and challenge the presenting officer about why the school cannot admit more children.

If there are a number of appeals for places at the same school, for the same year group, then the presenting officer will usually present the admission authority's case in front of all the parents together.

Once the presenting officer has presented the admission authority's case and the panel has enough information from them, you and the presenting officer will leave the room so that the panel can make a decision on whether to uphold your appeal at this stage or proceed to Part 2.

The panel should uphold your appeal at this stage if it finds that either:

- the school's admission arrangements were unlawful and your child would have been offered a place if they were lawful
- the school's admission arrangements were not applied properly in your child's case and your child would have been offered a place if they were properly applied

or

- admitting another child at the school would not prejudice the provision of efficient education or the efficient use of resources.

If the panel does not uphold your appeal at this stage, it will proceed to Part 2.

Part 2 – Parents' case for appeal

If the appeal proceeds to Part 2, this is when you'll present your case to the panel. If there are a large number of appeals being held together you might not present on the same day as the school's presenting officer. The clerk will notify you of the exact timings of your appeal.

You'll present your case individually. Only the panel and the presenting officer will be present. You'll need to explain why you believe the school should admit your child. The panel and the presenting officer may ask you questions about your case.

The panel may not be able to consider any new information or evidence you present if you've not already submitted it in writing.

After you've presented your case and the panel believes it has enough information to make a decision, the hearing will end. The panel will then discuss and make a decision to either uphold or dismiss your appeal in private. They will weigh up your case for wanting your child to attend the school against the school's arguments for not being able to admit another child. The panel will uphold your appeal if it finds that the negative impact on your child of not attending your preferred school outweighs the case put forward by the school as to why it cannot admit any more pupils.

You'll receive notice of the outcome of your appeal in writing.

Appeals for grammar schools

If your child passed the entrance test but was not offered a place because there were other children who more closely met the school's admissions criteria, then the appeals process is the same as all other school admission appeals.

If your child did not pass the entrance test the panel will consider your appeal differently.

Some admission authorities will carry out a local review to consider whether a child who has failed the entrance test is of grammar school standard. If following this process a child is still refused a school place, parents will still be able to appeal this decision.

In such cases appeal panels may only consider whether the admission authority carried out the review in a fair, consistent and objective way. The panel will not carry out the review process again.

If a local review process was not carried out or the panel considers that it was not carried out in a fair, consistent and objective way, the panel may only uphold the appeal if it is satisfied that:

- there is evidence to demonstrate that your child is of the required academic standard. (To support your appeal you could include school reports and references from your child's current school that show your child is of grammar school ability.)
- where applicable, your reasons for wanting your child to attend the school outweighs the admission authority's reasons for refusing admission

Appeals for boarding schools

If the boarding school did not offer your child a place because there were other children who more closely met the school's admissions criteria, then the appeals process is the same as all other school admission appeals.

If your child has been refused admission because the admission authority decided they were 'unsuitable to board', the panel will consider whether this decision was reasonable based in the information available.

They will not carry out their own assessment of whether your child is suitable to board.

Appeals for school sixth forms

If the school sixth form did not offer your child a place, both you and your child have the right to appeal. If they did not offer your child a place because there were others that more closely met the school's admissions criteria, then the appeals process is the same as all other school admission appeals.

If your child was refused admission because they did not meet the entry requirements specified by the school (for example 5 GCSEs grade 4 or above), the panel will only uphold the appeal if it considers that the admission authority's decision was unreasonable based on the information available. For example, if there are specific reasons or special circumstances that meant your child was not able to get the required GCSEs at the relevant grades.

Infant class size appeals

The law limits the size of an infant class (reception and years 1 and 2) to a maximum of 30 pupils per teacher (there are exceptions to this rule for certain limited categories of children). If the school refuses your child a place because admitting them would breach this limit then your appeal will be an infant class size appeal. This is different from all other school admission appeals.

In an infant class size appeal, a panel will only uphold the appeal where one of the following applies:

- It finds that the admission of an additional child would not breach the infant class size limit
- It finds that the school's admission arrangements were unlawful, or were not properly applied, and the child would have been offered a place at the school if the arrangements had been lawful or had been properly applied
- It decides that the decision to refuse admission was not one that a reasonable admission authority would have made in the circumstances of the case

To find a decision to be unreasonable the panel would need to be satisfied that the decision to refuse admission was 'perverse in the light of the admission arrangements'. In other words, the panel believes that no reasonable admission authority considering the matter could have come to the same decision.

As an example, a decision that makes it impossible for you to transport all your children to school on time is unlikely to be considered perverse. However, a decision to refuse a place for a child whose family had to relocate under a witness protection scheme might be. The decision on whether a refusal was unreasonable will be made by the appeal panel and will depend on the facts of the particular case presented at the appeal.

The threshold for finding that an admission authority's decision to refuse admission was unreasonable is high.

As such, it's unlikely that the panel would uphold the appeal on that basis. It's important that parents recognise this before investing what can be a significant amount of time and effort in an infant class size appeal.

Before you make your decision to appeal you should think carefully about your reasons for appeal and be realistic about the likely outcome.

After the appeal hearing

The clerk will normally write to you within 5 school days to notify you of the panel's decision. If the panel is hearing a large number of appeals, this may delay the notification letter. The clerk should inform you if that is the case.

The decision of the appeal panel is binding and only the courts, by way of a judicial review, can overturn a decision.

If the panel upholds your appeal the admission authority must admit your child.

If the panel does not uphold your appeal you still have a number of options you may wish to consider.

Waiting lists

If the panel does not uphold your appeal, you may wish to put your child's name on the school's waiting list (if you have not already done so), even where you have accepted a place at another school.

Even after all the places have been allocated at the school it is possible that a place could still become available, as not all children offered a place take them.

Admission authorities must operate a waiting list for at least the first term of each school year of admission (until 31 December), so in most schools this would be reception, year 7 or year 12.

Children who are on the waiting list are ranked by how closely they match the school's oversubscription criteria, not how long they've been on the list.

Seeking an alternative school place

It's your responsibility to secure a suitable education for your child. If your child is without a school place, contact your local council who will be able to advise and inform you of other available places in the area.

Complaints about appeals

If the panel did not uphold your appeal and you think that was because the appeal panel has acted incorrectly, you may make a complaint of maladministration.

Any complaint must relate to issues such as failure to follow correct procedure or failure to act independently or fairly. You cannot complain simply because you do not agree with the panel's decision.

For complaints against the appeal panel for a school maintained by your local council, you should complain to the Local Government and Social Care Ombudsman (<https://www.lgo.org.uk>).

For complaints against the appeal panel for an academy you should complain to the Education and Skills Funding Agency (<https://www.gov.uk/schools-admissions/appealing-a-schools-decision>).