Nottinghamshire County Council

SCHOOL ADMISSION APPEALS

Guidance for Parents and Carers - Infant Age Children

1. Introduction

The Law entitles parents to "express a preference" for schools. You have a right of appeal for a place at any school (including academies and free schools) where you have been refused a place at.

The Democratic Services Team provides an appeals service for all community and voluntary controlled schools. In addition some academy, voluntary aided and free schools have chosen to sign up for our service. Information on which academies, voluntary aided and free schools we provide services for are included on our webpage within the Academies, voluntary aided, foundation and free schools section of the page. Please check this list before you appeal using our appeal service. If you are unsure what type of school you wish to appeal for, a list of all Nottinghamshire schools who are their own admission authority (academies, foundation, voluntary aided and free schools) can be found online. If we do not provide an appeals service for the School you wish to appeal for, please contact the school directly to find out how to submit an appeal.

2. How to appeal

For any school which we provide an appeals service for you can either appeal online or you can request a printed copy of the appeal form by calling 0300 500 80 80. The appeal form is an important part of your case to the Appeal Panel and is provided to the Panel for their consideration, so you should complete it carefully. If you are using a printed copy of the appeal form, please return it to:-

Democratic Services, Nottinghamshire County Council, County Hall, West Bridgford, Nottingham NG2 7QP. Alternatively you can scan and email it to – education.appeals@nottscc.gov.uk

If your case is based on medical or social grounds, you should, wherever possible, provide written evidence from a medical practitioner or other professional to support this. Please note that the School you are appealing for a place at cannot support you in your appeal. One of the issues the Panel will consider is whether you provided such information at the time of your application. ***If you have not already shared this information with the Admissions Team you should also contact them regarding this as it could affect your place on the waiting list – 0300 500 80 80. Please also read the Infant Class Size information below for further guidance on this.***

Deadline for submitting your appeal

Deadlines for submitting your appeal are published on our website and are also attached as an appendix to this guide. Please check the deadlines to ensure that your appeal is submitted within the deadline.

3. Infant Class Size

Your application will have been refused because all of the places in the relevant year group have been filled. The Law states that in infant classes (Reception, Year 1 and Year 2) there must be no more than 30 pupils per teacher. If this applies to the school in either the academic year you are appealing for or in future academic years then your appeal will be dealt with as an Infant Class Size Appeal/Future Infant Class Size Appeal. We will tell you if this applies in the letter we send you giving you information on your appeal hearing.

In Infant Class Size hearings the Panel is essentially reviewing the Admission Authority's decision to refuse a place at the school in question. (Based on the information the Authority had available at that time.) The Panel will seek to clarify whether some form of error has occurred in the Admission Authority's processes or decision making which resulted in you not being offered a place you were entitled to.

In the whole of the 2014/15 school year and during the 2015/16 normal Admissions round (appeals heard between 8th June and 20th July 2015 inclusive) only 5% of Infant Class Size appeals were allowed.

The School Admission Appeals Code requires that we provide information to parents of the limited circumstances in which an infant class size appeal can be upheld in order that you can make an informed decision about whether to submit an appeal.

The grounds which an Appeal Panel can legally allow an infant class size appeal is limited to the following four grounds:-

- Admitting additional children would not breach the infant class size limit.
- Your child would have been offered a place if the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998 had been applied correctly
  (i.e. something unlawful in the arrangements resulted in your child not being given a place that they would have got had the arrangements been lawful.)
- Your child would have been offered a place if the admission arrangements had been correctly and impartially applied in your case
  (i.e. there has been an error in how your application was processed which resulted in your child not being given a place that they would have got had the arrangements been correctly applied.)
- The decision was not one which a reasonable authority would make in the circumstances of the case. The threshold for an unreasonable decision is very high and would be one that is perverse, *i.e. completely illogical or irrational, taking into account all the relevant facts of the case.*

  The Local Government Ombudsman has published a factsheet on complaints about infant class size appeals which provides useful information to parents regarding the limitation of infant class size appeals. http://www.lgo.org.uk/publications/fact-sheets/complaints-about-infant-class-sizes/. In this factsheet, the Ombudsman states that "a decision that makes it impossible for you to transport all your family to school on time, or even impossible for you to continue working, is very unlikely to be perverse."

  You may refer to personal factors on your appeal form or at the hearing, and the Appeal Panel will take them into account when considering whether the decision to refuse your application was a reasonable one. Further details on the reasonableness test can be found in paragraph 4.10 of the School Admissions Appeals Code.

  As the question of reasonableness relates to whether the decision made by the Admission Authority to refuse admission was unreasonable, the Panel will consider what information the Admission Authority had available to it at the time when it considered the application.

4. The Appeals Process

We will post a letter to you at least 10 school days in advance of your appeal to advise you of the date, time and place of the Appeal Hearing (unless you agreed to a shorter period). Before the hearing we will send you, the admission authority and the Panel Members copies of all the papers required for the hearing, including the case from the Admission Authority and all the information you have submitted.

If you wish to provide any additional information for the Panel to consider please submit this information no later than **5 days** before the hearing. This is to enable the additional information to be circulated to the Panel Members in advance of the hearing. Please note that if significant information is received after this deadline or on the day of the hearing we may have to adjourn your hearing to a later date to ensure that all parties have enough time to fully read the information. Please contact us as soon as possible if you are unable to meet this deadline.

You are responsible for presenting your case. Most parents attend the appeal hearing and we would strongly advise that you do so. You may also choose to ask someone to attend on your behalf. If you do not wish to or are unable to attend, your appeal will be decided on the information available to the Panel including any written information you have sent.

Please be aware that the school you have appealed for is **not** able to support you in your appeal. This includes individual members of staff at the school and includes both a written submission from the school and attending the hearing with/for you.

If you wish, you may bring a friend or supporter to help you present your case.

Special requirements/Interpreter

Please let us know if you have any special requirements which we will try to meet as far as the venue is concerned. If you require an interpreter, please let us know as soon as possible which language you require. Alternatively, if you would prefer, you may arrange your own interpreter. If you are arranging your own interpreter, please let us know as soon as possible before the hearing.

5. The Panel and others at the hearing

The Panel, which is a completely independent body, will have 3 members and will include:-

- at least one member who has experience in education, who has knowledge of education conditions in the area or who is a parent of a registered pupil at a school; and

- at least one Lay Member, that is, someone without personal experience in the management of any school or the provision of education in any school (other than experience gained as a school governor or in another voluntary capacity).

A Clerk to the Appeal Panel will be present to ensure the appeal is conducted fairly and legally. The Clerk is there to respond to queries in advance of the hearing, be an independent source of advice on procedures and admissions law, record the proceedings, decision and reasons, and notify all concerned of the Panel's decision. An Administrative Officer may also be present at the hearing to provide additional support to the Clerk and Panel. The Clerk will remain with the Panel during their decision making to advise solely on any points of law and procedure which may arise whilst the Panel members are considering their decision, and to take a record of the decision made. The Clerk will not take any part in the making of the decision. The Clerk's notes of the proceedings are not a verbatim transcript, nor do they constitute minutes of the Appeal Hearing, but are taken solely to assist the Panel's decision making process. These notes are kept by Democratic Services and in

most cases are exempt from disclosure under the Freedom of Information Act 2000 and the Data Protection Act 1998.

A representative of the Admission Authority will also attend the hearing to present the case on behalf of the Admission Authority. Sometimes someone from the school may attend, as a witness to give evidence about the school.

Before your appeal, we will tell you who the Panel Members and Clerk will be. You should tell us as soon as possible if you think you have a connection with any of them.

6. The Hearing

You will be allocated a specific time for your appeal hearing. If your case is being dealt with as a single appeal you will be given a single time slot and both parts of the appeal will be dealt with during this time slot. We usually allow 1 hour for single appeals.

If we have a large number of appeals for one school, hearings can be held over a number of days and your appeal will be held in two parts. The first part will either be dealt with during an evening starting at 6pm or at the start of a day and all parents who are appealing are invited to attend this part together. The first part deals with the admission authority's case and covers only the facts and figures relating to the School and how the admission arrangements were dealt with in general. The first part does not deal with your personal circumstances; they are for the second part which is your individual hearing. For the second part you will be invited to present your case to the Panel at a time allocated over the following few days. We usually allow 30 minutes for this stage, which we have found to generally be sufficient.

Outline of the Procedure

There are broadly two different types of appeals – Infant Class Size Prejudice/Future Infant Class Size Prejudice and Two Stage Appeals. You will be advised in your letter regarding your hearing date which type of appeal yours is. The procedures are explained below:-

Infant Class Size Prejudice/Future Infant Class Size Prejudice Appeals Procedure

At the start of the hearing the Chair will introduce everyone present. The Clerk will then explain how the hearing will proceed and check everyone has the same paperwork before them.

(a) The Admission Authority's representative will present the case to explain why your request was refused and why the appeal should not be granted.

(b) You can then ask questions of the Admission Authority's representative, and raise points about what he or she has said. This is followed by questions from the Appeal Panel members.

(c) You and/or your friend or supporter (if you wish) will then have the opportunity to put your case as to why you want a place at the school, with reference to the 4 grounds for allowing an infant class size appeal detailed in section 3 above.

(d) The Admission Authority's representative can then ask you questions followed by questions from Appeal Panel members.

(e) Finally both parties will be able to sum up their cases; first the Admission Authority representative and then you will have the final word. The Panel will reach its decision in private and will look at the four grounds for allowing this type of appeal.

(f) A letter giving the decision will be posted out to you within 5 school days of the decision being confirmed wherever possible.

Differences to the procedure for multiple appeals

As explained at the beginning of this section, if we receive a large number of appeals for one school, hearings will be dealt with in two stages with all parents invited to attend the first part together to hear the school's case and you will then have an individual time slot to present your case to the Panel.

In relation to the procedure above, the Panel will adjourn after (b) to consider whether the Admission Authority has proven their case that the admission of additional children would breach the Infant Class Size Limit, that the published admission arrangements comply with the relevant laws and that the admission arrangements have been applied correctly in general terms.

If the Panel accepts the admission authority's case then each appellant is given the opportunity to present their case in private to the Panel as detailed above.

In multiple appeals, the appeal panel will make a provisional decision at the end of each second stage appeal. A final decision will be made once all the second stage cases in the multiple appeals have been heard.

Two Stage Appeal Procedure

At the start of the hearing the Chair will introduce everyone present. The Clerk will then explain how the hearing will proceed and check everyone has the same paperwork before them.

(a) The Admission Authority representative will present the case to explain why your request was refused and why the appeal should not be granted.

(b) You can then ask questions of the Admission Authority's representative, and raise points about what he or she has said. This is followed by questions from the Appeal Panel members.

(c) You and the Admission Authority representative will be asked to leave while the Appeal Panel considers whether the admission arrangements comply with the relevant laws, whether the admission arrangements have been properly administered, and whether the Authority has proven that to allow the appeal would prejudice either the provision of efficient education and/or the efficient use of resources.

If the Panel decides that the Admission Authority has failed to prove its case the appeal will be allowed at this point and your child will be admitted to the School. The appeal hearing will therefore cease at this point.

If the Panel accepts the Admission Authority's case the appeal hearing will proceed to the second stage.

(d) It is at this stage that you and/or a friend or support (if you wish) can put your reasons to the Panel, stating as fully as you wish why you want your child to attend the school including all relevant points and factors which you feel would override the prejudice that would be caused to the school in having an additional child.

(e) The Admission Authority's representative can then ask you questions followed by questions from Appeal Panel members.

(f) Finally both parties will be able to sum up their cases; first the Admission Authority representative and then you will have the final word. In making its decision, the Panel will balance the information you have provided as to why you want a place at the school for your child against the prejudice to the school in taking an additional child before coming to a decision.

(g) A letter giving the decision will be posted out to you within 5 school days of the decision being confirmed wherever possible.

Differences to the procedure in multiple appeals

As explained above, if we receive a large number of appeals for one school, hearings will be dealt with in two stages with all parents invited to attend the first part together to hear the schools case and you will then have an individual time slot to present your case. (a) to (c) above will be dealt with in Stage one with all parents invited to attend, (d) to (f) is the procedure for your individual appeal.

In multiple appeals, the appeal panel will make a provisional decision at the end of each Stage 2 appeal. A final decision will be made once all the Stage 2 cases in the multiple appeals have been heard.

NOTE: occasionally some variations of the above procedures may be followed where this is helpful to all parties.

7. The Appeal Panel's Decision

Decisions are taken by a simple majority. The decision of the Appeal Panel is binding upon the Admission Authority if your appeal is upheld. You have no further right of appeal to the Admission Authority against the rejection of your appeal if your appeal is dismissed.

A letter setting out the decision and the reasons for it will be sent out within 5 school days of the hearing wherever possible.

8. Complaints

If you feel your appeal hearing was not conducted properly you can complain to the Local Government Ombudsman (for all schools except Academies) or the Education Funding Agency (for Academies). These bodies can investigate complaints about the process of the appeal or how your initial application was dealt with by the Admission Authority. It is not another level of appeal and investigators cannot question decisions if they were taken properly and fairly by the admissions authority or the Appeal Panel.

Local Government Ombudsman
You can contact the Ombudsman's Advice Team on 0300 061 0614 or 0845 602 1983 (8.30am to 5.00pm, Monday to Fridays). Website: www.lgo.org.uk

The Local Government ombudsman has the following factsheets that provide some general information about the most common types of complaints which you may find useful:-

http://www.lgo.org.uk/publications/fact-sheets/complaints-about-school-admissions/

http://www.lgo.org.uk/publications/fact-sheets/complaints-about-infant-class-sizes/

Education Funding Agency
Complaints regarding the process relating to appeals for Academies should be sent to the Education Funding Agency using the online complaints form:- https://www.gov.uk/schools-admissions/appealing-a-schools-decision - Complain about the appeal process – other schools section – *"fill in the online complaints form"* or by writing to:-

The Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT

Judicial Review
If anyone concerned with the appeal (you as the parent, or the Admission Authority) considered that the decision of the Appeal Panel was legally in error, they can seek to challenge the decision of the

Appeal Panel by means of what is known as judicial review. This is legally very complex and, unless legally aided, can be costly. In essence such an application to the Court would only succeed if it can be shown that the Appeal Panel has misdirected itself in law, or had on the evidence made such an unreasonable decision that in the view of the Court no reasonable Appeal Panel, taking into account all the relevant factors and disregarding irrelevancies, could have taken such a decision. If you wish to consider this course of action you should take independent legal advice.

Secretary of State
The Secretary of State for Education cannot review decisions of individual Appeal Panels but can consider whether the admission authority correctly constituted the Appeal Panel; whether the admission authority has acted reasonably in exercising its function in respect of the appeal process or has failed to discharge any legal duty in relation to that process, eg in constituting the Panel or by acting in breach of the mandatory provisions of the Appeals Code.

The address for the Secretary of State is:-

Secretary of State, Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT

Telephone: 0870 000 2288 Website: www.education.gov.uk

9. Further Information

Democratic Services Team
If you would like any further information about the process, please ring (0115) 9773887 or email – education.appeals@nottscc.gov.uk

Advisory Centre for Education (ACE)
The Advisory Centre for Education (ACE) is an independent national education advice centre which provides information on the education system.

If you are the parent or carer of a child at or due to start school and you would like to talk to an adviser you can call their confidential telephone advice line on 0300 0115 142.

Website: http://www.ace-ed.org.uk/advice-about-education-for-parents

Department for Education (DfE)
The DfE website is www.education.gov.uk

County Council Admissions Team
If you want to find out about where places are available at alternative schools you need to speak to the Admissions Team on 0300 500 80 80 or email admissions.ed@nottscc.gov.uk

APPENDIX

For appeals for first admission in to Reception in September 2016 the timetable for submitting and hearing your appeal is below:-

Appeals timetable for the 2016/17 Admissions Round

- Offer Date: 18 April 2016
- Deadline for lodging appeals: 17 May 2016 (appeals received after this deadline will be heard within 40 school days of the deadline for hearing appeals received where possible or within 30 school days from the date of receipt)
- Deadline for hearing on-time appeals: 20 July 2016

For appeals such as in-year admissions or transfers for the **2015/16 Academic Year** please return your form within 4 weeks of the date of your refusal letter. These appeals will be heard within 30 school days of the appeal being lodged. Admission to the 2015/16 Academic Year will end on 20th July 2016, appeals lodged after this date will be dealt with as 2016/17 in-year appeals.

Useful Links:

Making a school admission appeal:
http://www.nottinghamshire.gov.uk/education/school-admissions/making-a-school-admission-appeal

Determined admission arrangements and list of schools who are their own admission authority:
http://www.nottinghamshire.gov.uk/education/school-admissions/determined-admission-arrangements-2016-2017

Admissions appeal form:
https://secure.nottinghamshire.gov.uk/learningandwork/schools/schoolsadmissions/schooladmissionsappealform/

Timetable for admission appeals:
http://www.nottinghamshire.gov.uk/education/school-admissions/making-a-school-admission-appeal/timetable-for-admission-appeals

Appealing a schools decision:
https://www.gov.uk/schools-admissions/appealing-a-schools-decision

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