

Sheffield  
City Council



# A Guide for Parents & Carers

## Key Stage 1 Appeals

Children, Young People and Families

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## **Introduction**

We realise that parents often find an appeal stressful because of the importance of the decision. There are different rules for appeals that are considered as “Infant Class Size” appeals.

**Please take the time to read this guidance, especially the rules for Infant Class Size appeals on page 8 before deciding whether you wish to appeal or not.**

## **Help with your appeal and contact details**

Legal & Governance	0114 273 4008
The Admissions Team	0114 273 5766 or 273 5790

You can ring these numbers to ask any questions about the appeal. As telephone lines can be very busy you may also wish to send your enquiry by email to [ed-admissions@sheffield.gov.uk](mailto:ed-admissions@sheffield.gov.uk)

Please note that whilst Officers are happy to provide advice and guidance about the Appeal procedure, the Authority will be presenting a case at the appeal against any further admissions to the school. You may wish to also seek independent advice from The Advisory Centre for Education (ACE) at [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

## **We will aim to meet all statutory deadlines as follows:**

- With regard to an appeal for Reception (Foundation 2) that is made on time for September transfer we will aim to arrange for your appeal to be heard within 40 schools days of the last date for lodging appeals.
- Appeals for In-Year transfers for all year groups will be heard within 30 school days of the appeal being received.
- You will normally receive at least 10 school days’ notice of the time and date of your appeal.
- You will receive all relevant papers including the case for refusing your application a reasonable time before your hearing. In Sheffield we usually aim to provide them 4 working days before the hearing.
- The clerk to the Independent Appeal Panel (“the Panel”) will inform you of the Panel’s decision by letter. The letter will be posted as soon as possible after the hearing but not later than 5 working days, unless there is good reason

## **Your right of appeal**

The School Standards and Framework Act 1998 confirms your right to appeal to a voluntary independent panel against any decision to refuse a place at any of your preferred schools. This could be for a maximum of three schools.

The Panel is legally constituted and has the power to make a decision that is binding on a school and parents. It can overrule the decision to refuse a place even if the Authority claims that the school is full, equally it can refuse appeals made by parents due to the school’s circumstances.

At the hearing you will be given the opportunity to tell the Panel why you feel your child should be admitted to the school. You should expect to answer questions about the reasons for your application.

This guide provides information on how to make an appeal and what happens at the appeal hearing.

There are two key services involved with your admission and appeal applications:

### **The Admissions Team**

The Team is responsible for administering all applications submitted by Sheffield residents and for notifying you of the outcome of your application. Appeals are scheduled separately.

### **Legal & Governance**

This Service is part of the Council but separate from the Admissions Team and is responsible for recruiting and training Appeal Panel members and the clerks and scheduling the appeal hearings.

### **How do I make an Appeal?**

You can appeal against a decision to refuse your child a place at your preferred school or schools for a maximum of three schools per academic year. You must appeal against the decision in writing by completing an appeal form. You can obtain a form by visiting our website or by contacting the Admissions Team directly on 2735790 or 2735766.

**You are strongly advised to read this guide before completing your appeal form.**

The Panel will consider the reasons for your appeal in advance of your actual hearing. It is very important therefore that you **provide all information** that you wish the Panel to consider with your application form, including any supporting evidence that was submitted with your original admission application form.

Where Infant Class Size rules apply, the Panel is restricted to the three criteria in the grey box on page 9. Please be aware that in most cases the Panel can only **review** information that you submitted with your original admission application form.

The Panel may not always accept new evidence that is provided on the day. In exercising its discretion on whether to accept any new evidence, the Panel will take into account its significance and the effect of a possible need to adjourn the hearing or for it to be rescheduled at a later date.

Your Appeal Form should be returned to:

LEGAL & GOVERNANCE  
DEMOCRATIC SERVICES  
ROOM G13  
TOWN HALL  
SHEFFIELD  
S1 2HH

### **What Happens Next?**

Appeal hearings for Nursery to Reception (FS1 to FS2) that are submitted on time will normally be heard after the Spring Bank holiday. In-Year appeals are heard all year round and will normally be heard within 30 days of them being submitted.

We do not arrange appeal hearings during school holidays.

### **How do I prepare my case?**

There is no right or wrong way to do this. The Authority cannot advise you on what to say at your appeal but the following general guidance might be helpful.

When you come to the part of the Notice of Admission Appeal form that asks you to set out your "Grounds of Appeal", it is important that you relate your reasons to your application and to the criteria against which your appeal will be considered:

1. You do not believe that the addition of one more child would breach the infant class size limit of 30.
2. You believe that the Authority made an error that led to your child being denied a place that they were entitled to, or that the admission criteria were unlawful.
3. You believe that the decision to refuse a place was "unreasonable" based on the legal definition.

**The Panel, whilst not unsympathetic to your personal circumstances, is required by law to only consider the three criteria given above.**

### **Interpreters and other assistance**

If you need the help of an interpreter or assistance with access arrangements within the Town Hall because you are disabled please let the Legal & Governance Team know as soon as possible. There are spaces for this information on the Notice of Admission Appeal form or you can ring and discuss your requirements on the phone.

### **Who is involved at the hearing?**

The appeal panel responsible for making the decision is made up of three members who are **completely independent** of the school and of the Local Authority.

A panel **must** consist of the following persons with at least one from each category:

- a) lay people (someone without personal experience in the management of any school or provision of education in any school (except as a school governor or in another voluntary capacity));
- b) people who have experience in education, who are acquainted with educational conditions in the local authority area, or who are parents of registered pupils at school.

Admission authorities must appoint a **clerk** to the Appeal Panel who is independent of the school and the education functions of the Local Authority. The clerk must have knowledge of the Appeal and Admission Codes, other law relating to admissions and other relevant law. One of the key functions of the clerk is to ensure that the hearing is heard within the correct framework and that both parties have a fair hearing. The clerk is also responsible for taking notes of the meeting and for sending you the decision of the Panel.

The clerk **does not** take part in making the decision. This is entirely the responsibility of the Panel.

A representative from the Admission Authority will normally be at the hearing to present the reasons why a place has been refused. Normally the Headteacher or other representative from the school will be present as a witness to answer any questions that you or the Panel may have about the school.

### **Who are the appeal panel?**

- The law requires that the Panel **must** be independent from the Admission Authority and from the school you are appealing for.
- Panel members are **volunteers**, they are not paid by the Local Authority.
- Panels do not report to, nor are they responsible to the City Council.
- The Panels operate within a strict legal framework that applies to all Admission Authorities.

### **Will I have to attend the hearing?**

You do not have to attend the hearing if you do not wish to. If you do not attend, the Panel will make its decision based on:

1. Written evidence provided with your appeal form,
2. An oral and written statement from the Admission Authority Officer to explain why a place was refused.

You are however strongly advised to attend the hearing in person to enable you to fully present your case and to give the Panel the opportunity of clarifying any part of

your submission. Although it is a structured hearing, Panels realise that it can be a stressful situation and manage the hearings as informally as possible.

Hearings operate on a tight schedule. To be fair to other parents who are scheduled after you, your hearing will go ahead in your absence based on the written evidence you submitted with your appeal/application form, if you do not arrive within **10 minutes** of your allotted appointment. Your hearing **will not** be rescheduled to another time unless you contact us in advance of your hearing time.

Whilst Panels would prefer to hear from the parent/guardian, you may be represented, or accompanied by a friend. It would be helpful if you would declare this on your appeal form in advance of the hearing.

If you are unable to attend and wish a third party to represent you at the hearing you must provide them with a signed statement to bring to the hearing that confirms your consent.

The appeal form is an important part of your case and you should take time to complete it.

**If you are going to rely on written evidence as well as the appeal form you should attach it to the form. You must ensure that any subsequent information that you wish to be considered is sent to Democratic Services at least two school days before your appeal. Evidence submitted after this date may not be admissible.**

### **Before the hearing**

You will receive a copy of the Admission Authority statement before the hearing. This will summarise:

- a) How the Authority carries out its role in co-ordinating admissions.
- b) How places were allocated and in which admission category your application was placed.
- c) The reason why your child was refused a place at the school.
- d) Whether your case is being presented as an Infant Class Size appeal.

### **Types of Appeal**

There are two types of appeal:

#### **Grouped Appeal**

Where a large number of parents appeal for places at the same school, a grouped appeal may be arranged for all parents to attend Stage 1 at the same time and hear the Admission Authority's case.

**Stage 1** – A Presenting Officer from the Authority will explain to all appellants why their application has been refused and why the school cannot admit any more pupils. This will be done in front of the Panel and all parents who have appealed for a place at the school. All parents will have the opportunity to ask the Presenting Officer and

the school representative any questions about their case. This ensures that all parents hear the same information including any questions that are raised by parents in relation to the Authority and the school case. **Individual circumstances are not considered at Stage 1.**

At the end of Stage 1 the Panel has to decide whether or not the Admission Authority has proved its case and whether it will be considering the appeal as an “Infant Class Size Review” or not. If the Panel decides that the Admission Authority has made its case, then it moves to Stage 2 of the process. If the Admission Authority has not made its case then the appeal will be considered as a prejudice appeal and will be determined as outlined under “How does the Panel make its decision for ICS Appeals?” of this guide

If you are not able to attend the Stage 1 of the Grouped Appeals, the hearing will go ahead in your absence. The outcome of the Stage 1 appeal hearing will be communicated to you at the Stage 2 individual appeals. The outcome will also be communicated in the decision letter.

At **Stage 2** you will be invited to a private and confidential meeting to present your own circumstances. The conduct of the hearing will be the same as that explained below. No further questions about the Admission Authority’s case will be permitted at Stage 2.

You will be notified in advance if your appeal is to be considered as a Grouped Appeal. You will also be provided with a code of conduct which will explain in more detail how the grouped part of the appeal will be conducted.

### **Individual Appeals**

For an individual appeal you will be invited to a personal hearing for the two stages.

The hearing is a formal meeting. The Chair of the Panel is responsible for conducting the meeting and will explain to you the way in which the meeting will be managed. Whilst it may appear formal, this is to ensure that all parties have the opportunity to speak and make their case in an orderly manner, without interruption.

To ensure fairness and transparency, the Presenting Officer from the Authority cannot be in the room without you. You will go in together and you will leave together.

### **What happens at a hearing?**

Following introductions the following procedure will take place:

- The Chair will explain the procedure and what happens next.
- The Presenting Officer will be invited to explain the Admission Authority’s case (**Stage 1**). You and the Panel will be able to ask questions and clarify any specific point.
- You will then be invited to present your case (**Stage 2**).

- The Panel and the Admission Authority can then ask you questions or clarify any specific points.
- When questions have finished the Admission Authority then yourself will be invited to sum up your cases.
- The Chair will explain how the decision will be made and how you will be informed of the decision.
- Both parties will then leave the room together.

### **Infant class size rules**

The Government has passed a law that states that there can normally only be a maximum of 30 children to one qualified teacher in an infant class (Reception, Year 1 and Year 2). You can still appeal for a place but it is important that you understand the tight restrictions that the Panel is placed under before you do so.

Under infant class size rules the Panel can only uphold your appeal if they are satisfied that one or more of the following circumstances has been proven:

- 1. It finds that the admission of an additional child would not breach the infant class size limit; *(Are the panel satisfied that the classes are at 30) or***
- 2. It finds that the admission authority did not comply with admissions law or the arrangements were not correctly and impartially applied and that the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; *(Have the Authority made a mistake which means your child has missed out on a place that they would have been given, if a mistake had not been made) or***
- 3. It decides that the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case. What is “reasonable” is a high test. The panel needs to be sure that when your child was refused a place it was “perverse” or “outrageous”.**

### **How does the Panel make its decision for ICS Appeals?**

#### **First Stage**

The Panel must first be satisfied that the Infant Class Size rules apply. To do this they need to establish that classes within Key Stage 1 at the School are at 30 and that admitting another pupil would cause there to be more than 30 pupils per qualified teacher. The Panel would also need to see whether there are any measures the School could take to avoid breaching the Infant Class Size limit. This could mean things like mixing year groups or employing an additional teacher.

#### **Future Infant Class Size Prejudice**

The Admission Authority can present a case on the grounds that the admission of additional children may create a breach of the infant class size limit in future years, even if this would not be the case in Reception.

If for example a school had an admission number of 75 and chose to operate 3 classes of 25 in Reception, this would not breach infant class size.

If however in Years 1 and 2 with a maximum of 150 children the school had 5 classes of 30 including a mixed year group, it can be argued that placing an additional child into Reception may create a class of 31 in future years.

Example:

	Reception	Y1	Y2	Class Size
	25			25
	25			25
	25			25
		30		30
		30		30
		15	15	30
			30	30
			30	30
	<b>75</b>	<b>75</b>	<b>75</b>	<b>225</b>

If the Panel does not find that Infant Class Size rules apply, the case then becomes a “prejudice” case and is dealt with in the same way as Key Stage 2 appeals. You can find more information about this in the separate guidance for these appeals. If, however, the Panel is satisfied that Infant Class Size rules do apply, its powers are limited from this point onwards to a **review** of the original decision by the Admission Authority. The Panel will address this in two separate stages.

### **Infant Class Size Review Stages**

#### **Second Stage:**

The Panel will then examine how the Admissions Authority made its decision, and make sure that this was carried out fairly and according to correct and legal admissions arrangements. The Panel **must** refuse the appeal at the second stage, and continue to the third stage where it finds that:

- a) the admission arrangements did comply with admissions law and were correctly and impartially applied, or
- b) It finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that if they had been, the child would not have been offered a place.

In other words where the Panel does identify fault with the Admission Authority but this did not lead to your child being denied a place that they would otherwise have been offered.

#### **Third Stage**

Finally, the Panel will examine the reasonableness of the decision to refuse admission. You would need to show that the Admission Authority either overlooked relevant information you had provided on your application for your preferred school,

or took into account information not relevant to your application, or that the decision to refuse to admit your child was not rational or logical, or based on the facts that you provided. The panel in reviewing the decision to refuse admission to your preferred school will need to be satisfied that it was “perverse in light of the admission arrangements”. **It must be emphasised that when reviewing this decision, the Panel can only consider information that you provided on your application to the Admission Authority at the time it made the decision to refuse a place at your preferred school.** It cannot take into account new information that is different to what was known on your application.

**It is not the Authority’s intention to dissuade you from appealing, but equally it is important that you are fully informed and aware of the tight restrictions that are placed on the Panel in an Infant Class Size appeal. When considering whether to appeal you are strongly advised to consider if your own circumstances would satisfy any of the criteria 1-3 in the grey box above. If they do not, the Panel cannot uphold your appeal.**

**For the 2014/15 Reception intake there were a total of 202 infant class size appeals of which only 14 (7%) were upheld.**

#### **How will I be informed of the decision?**

The Clerk will notify you of the decision in writing as quickly as possible. The letter will be posted as soon as possible after the hearing but not later than 5 working days, unless there is good reason. It may take longer where there are a large number of appeals. It is important that all parents find out the decision at the same time and the written reasons for that decision. It will not be possible to let you know the decision in advance of the written reasons over the phone.

**Please note that the Appeal Panel decision is final and binding on the school and parents. You can complain to the Ombudsman for Local Authority Schools and the Education Funding Agency for Academies if you believe that your appeal has not been administered correctly. Details are provided under “Making a Complaint” on page 12.**

#### **What happens if I appeal for more than one school?**

If you are appealing for several schools each appeal will be on a different day as Democratic Services try and arrange all appeals for the same school together and it is unlikely that you will get your appeals in preference order

If you are successful in an appeal for your first preference school the Admissions Authority will cancel any appeal for a school that is ranked lower on your application by you, unless **they are advised not to do so**. They will not cancel any appeal for a school that is ranked higher than the one for which you have been successful unless you notify them accordingly.

### **Can I appeal again if I am unsuccessful?**

Normally no. The only exception to this is if you have experienced a significant change in circumstances from when you first applied. If this is the case you would write to the Admissions Services to request making a fresh application.

### **Waiting Lists**

Each Admission Authority maintains its own waiting lists. You should ask the Local Authority or Governing Body for information about the waiting list for the particular school you applied for.

As the Appeal Panel is independent of the Admission Authority it cannot have any knowledge of the position of your child on the waiting list. It is not a relevant factor for the Panel. The decision will be based entirely on the information the Panel is presented with at the appeal.

### **Making a Complaint**

If you believe that either your original admission application or the appeal itself has been managed incorrectly you can complain to the Local Government Ombudsman for Local Authority Schools and the Education Funding Agency for Academies. You can find further details at <http://www.lgo.org.uk/>

The Ombudsman and Education Funding Agency can only consider matters of maladministration. They cannot overturn the original decision. They can however recommend a fresh right of appeal if they find that there has been maladministration.

An Appeal Panel decision can only be overturned at the High Court through Judicial Review on a point of law.

Sheffield City Council