

# Guide to the School Admission Appeals Procedure



Notice of Appeal under section 94(1) of the School Standards and Framework Act 1998 against the admission authority's admission decision not to offer a school place at a community or voluntary controlled school maintained by North East Lincolnshire Council or the Local Authority's decision on behalf of the Governing Body/Academy Trust of an Academy, not to offer a place at that school.

Parents/carers are advised to read this guide carefully before completing the Notice of Appeal Form. This guide, in conjunction with the notice of appeal form, is to enable parent/carer(s) to appeal against the admission authority's decision to refuse their child's admission to the school of their preference.

If you are appealing an admission decision for Cleethorpes Academy, Healing Primary School, Healing School – A Science Academy, Pilgrim Academy, Reynolds Primary Academy, St Joseph's Catholic Primary Voluntary Academy, St Mary's Catholic Primary Voluntary Academy, Tollbar Academy or any school in a neighbouring local authority; you should read the document "How do I appeal?" issued with your letter for further information. **Do not** complete the form attached to this document as it may not be accepted by these schools.

We have based this advice on guidance provided by the Department for Education using the School Admissions Code and School Admission 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 ([www.childlawadvice.org.uk](http://www.childlawadvice.org.uk)).

## Your right of appeal

If you have applied to a school and it does not offer your child a place, you have the right to appeal this decision. You can only appeal once for a place in the same school in the same academic year.

## Things to consider before you appeal

There are things you need to consider before you make a school admission appeal. You will have to complete the notice of appeal form and attend an appeal hearing. You should be aware that an appeal can prolong the period of uncertainty for parents and children, so it is important to be realistic about your reasons for appealing and the chances of being successful. 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 website or local authority's website.

## How schools allocate places

Parents and carers are able to make preferences as to which school they would like their child to attend. Where possible, parents will be offered a place at one of their preferences. 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. 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 authority's website.

## Reasons for refusing admission

Your admission decision letter should give the reason why your child was refused a place at your choice of school. 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.

## Your case for appeal

It is important that you clearly set out the reasons why your child should have a place at your preferred school in both your notice of appeal form 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 is 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

You will need to submit your appeal on the notice of appeal form. 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. If you cannot send all the information and supporting evidence you want to at the time you submit your appeal, it is 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. Any submitted appeal for in year admissions must be heard within 30 school days of the date of receipt. You will be given at least 10 school days' notice, unless you have told them that you do not need this much notice. Not less than 3 school days before the hearing, parents/carers will receive a written statement from the local authority explaining the application of the admissions policy to the child's case and outlining the reasons why it was not possible for the child to be admitted to the school of the parents/carers preference.

All phased (primary to secondary, infants to junior, starting school for the first time) appeals will be heard within 40 school days of the published deadline. However pupils transferring from primary to secondary schools whose appeals (arranged by the Local Authority) are submitted by the published deadline of 31 March 2020 and; pupils starting school for the first time or transferring from infants to junior schools whose appeals (arranged by the Local Authority) are submitted by the published deadline of 19 May 2020, will be heard first, followed by subsequently submitted forms. (Appeal deadlines for other admission authorities may differ).

Please Note: - Appeals are arranged to be heard during the hours of 9am to 4pm Monday to Friday only. Appeals are not arranged during the month of August, on any bank holidays or during the Christmas/New Year period.

#### 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.

**Appellant** - This is you. 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 (not a representative of the school) 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. Note: If you are unable to attend the date of your hearing but would like to attend the hearing, the Local Authority will endeavour to offer a further hearing though this is not a guarantee.

#### What happens at an appeal hearing?

It is important you understand what will happen at an appeal hearing so that you can be prepared. First, the clerk will outline the procedure outside of the hearing room and then, when you go into the hearing room, 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 two stages.

#### Stage1 – 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. 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 stage 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 correctly in your child's case and your child would have been offered a place if they were correctly 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 stage 2.

#### Stage2 – Parents' case for appeal

This is when you will present your case to the panel. You will 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. After you have 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.

#### 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

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

As such, it is unlikely that the panel would uphold the appeal on that basis. It is important that parents recognize 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

Decisions will **NOT** be issued on the day of the appeal hearing. You will be asked to contact the local authority by phone on a nominated date. You will be issued with the relevant details prior to your appeal hearing. The clerk to the appeal panel will then write to you as soon as possible (usually within five school days of the hearing) to inform you of the result of your appeal. If you are unsuccessful at appeal, the letter will also state the reasons why you were unsuccessful. 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.

#### 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 ([www.lgo.org.uk](http://www.lgo.org.uk)).

For complaints against the appeal panel for an academy you should complain to the Education and Skills Funding Agency ([www.gov.uk](http://www.gov.uk)).

Further information regarding this will be outlined in your decision letter.