

## **School Appeals Guidance for Parents**

If your child cannot be offered a place at your preferred school you can appeal against the decision. Appeals are heard by an independent appeal panel of three to five members of the public.

You should submit your appeal within 25 school days of receiving your refusal letter.

### **Frequently Asked Questions**

#### **What should I do if I think the Admission Authority has made a mistake in dealing with my application?**

If you think the Admission Authority has made a mistake you should contact the School Admissions Team as soon as possible. If it is found that you should have been offered a place at your preferred school the Admission Authority must give your child a place at that school straightaway. You will not have to go through the appeals process.

#### **Why has my application for a place been refused?**

All schools must have an admission number for each age group which is set with regard to, for example, the capacity of the school. Refusal of a place at your preferred school will be due to the admission number for that specific year group being reached and so no further places can be allocated. This is because doing so would 'prejudice the provision of efficient education or the efficient use of resources' at the school and the School Admissions Code exempts admission authorities from the duty to comply with parental preference where this is the case.

#### **When will my appeal be heard?**

You should lodge your appeal within 25 school days of the date of notification that your application was unsuccessful. National offer day for first and primary applications is 16 April (or the next working day) and for middle, high and secondary it is 1 March (or the next working day), in the normal admissions round.

For applications heard in the normal admissions round, appeals must be heard within 40 school days of the deadline for lodging appeals (see above paragraph). For late applications for a school place, appeals should be heard within 40 school days from the deadline for lodging appeals where possible, or within 30 school days of the appeal being lodged.

For applications to sixth forms:

- i) where the offer of a place would have been conditional upon exam results, appeals must be heard within 30 school days of confirmation of those results; ii) where the offer of a place would not have been conditional upon exam results, appeals must be heard within 40 school days of the deadline for lodging appeals;

For applications for in-year admissions, appeals must be heard within 30 school days of the appeal being lodged.

Any appeals submitted after the appropriate deadline will still be heard but appeals will not be heard during the summer holiday break.

### **Who is the Admission Authority for the school?**

The Admission Authority is different depending on the type of school it is:

**Type of School Admission Authority** Community schools Voluntary controlled schools

The Local Authority (Northumberland County Council)

Voluntary aided schools Foundation schools Trust schools

The Governing Body

Academies The Academy Trust

**Please note** only school appeal forms for Community and Voluntary Controlled schools should be returned to School Admission Appeals, Democratic Services, County Hall, Morpeth NE61 2EF. **(Appeal forms for Voluntary Aided, Academies and Trust Schools should be returned as indicated on the refusal letter.)**

### **Who will hear my appeal?**

Appeals are heard by an independent panel of three to five voluntary and independent members of the public. At least one will have experience in education, and acquainted with educational conditions in the local authority area. At least one other will be a lay person.

You may be asked to attend the hearing with other parents if the panel is hearing lots of appeals for the same school. If this happens, each parent's case will be heard individually. You can also ask someone, such as a friend, to accompany you, but you should not bring your child to the hearing.

The chair of the panel is responsible for the conduct of the hearing including introducing the parties and explaining the roles of the clerk and the panel, explaining how the hearing will be conducted, and ensuring that the parties have sufficient opportunity to state their case and ask questions.

There will be a clerk present who acts as an adviser to the appeal panel on law and procedure; they are independent of the school and, in the case of community and voluntary controlled schools, the education functions of the local authority and are able to offer impartial advice to enable the panel to undertake its judicial function. They will keep an accurate record of proceedings and provide the parties with written notification of the panel's decision. A representative of the Admission Authority for the school will also be there to present their case.

All appeals are held at County Hall, Morpeth.

### **What happens before the hearing?**

You will be given at least ten school days' notice of the hearing.

You need to confirm that you can attend the hearing on the date set. If you cannot attend on the date of the appeal hearing and it cannot be re-scheduled (for example, because it is a multiple appeal involving lots of other parents), the appeal may go ahead in your absence and the appeal will be decided on the written information you submit. It is important that you include as much relevant information as you can in order that the panel can make as

informed a decision as possible. You should also provide any written evidence that is asked for in the letter. Any additional evidence must be submitted in order to allow the clerk to send

appeal papers to the panel and parties to arrive not later than 5 school days before the appeal.

Members of the school you are appealing for are not allowed to support your appeal, for example by writing a letter for you to take to the hearing. Letters from your child's current school will not be taken into consideration by the appeal panel, nor will school reports. Northumberland is a non-selective authority therefore such information is not necessary.

You and the appeal panel will be sent an admission appeal statement five school days before your hearing giving the reasons for refusing your child a place at the school.

Most appeals for places in reception classes fail. This is because the law states that infant classes (Reception, Year 1 and Year 2) must not have more than 30 children taught by one qualified teacher. You should consider this when deciding whether to submit an appeal. Circumstances such as home to school distance, childcare arrangements, transport issues or having children at other schools are not sufficient enough reasons to make an appeal successful.

There is the odd rare exception to this rule – for example, when a child moves into the area outside the admissions round and no school in the area has places available, or if a child is in care or has special educational needs.

An appeal panel cannot, in its deliberations, force a school into the position of taking what is known as a 'qualifying measure' for example, having to provide an additional teaching space or an additional teacher – it can only base its decisions on the resources that are available to the school at the time.

## **What happens at the hearing?**

**First Stage** – examining the decision to refuse admission.

The panel must consider whether the admission arrangements complied with admissions law and whether the admission arrangements were correctly and impartially applied. Then the panel must then decide whether the admission of additional children would prejudice the provision of efficient education or the efficient use of resources at the school.

If the appeal panel finds that the admission arrangements did not comply with admissions law or had not been correctly and impartially applied, and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or it finds that the admission of children would not prejudice the provision of efficient education or efficient use of resources, it must uphold the appeal. However, in multiple appeals where a number of children would have been offered a place, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel must proceed to the second stage.

The panel must proceed to the second stage where:

It finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child; or it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that, if they had complied and had been correctly and impartially applied, the child would not have been offered a place and it finds that the admission of additional children would prejudice the provision of efficient education or efficient use of resources.

### **Second Stage – balancing the arguments**

The panel must balance the prejudice to the school against your case for your child to be admitted to school. If your case outweighs the prejudice to the school it will uphold your appeal. In group appeals, where the panel finds that there are more cases which outweigh prejudice than the school can admit, it will compare the cases and uphold those with the strongest case for admission.

### **Infant Class Size Appeals**

Panels must follow the two stage decision making process below when considering infant class size appeals:

#### **First stage – examining the decision to refuse admission**

The panel must consider whether the admission of an additional child/additional children would breach the infant class size limit; whether the admission arrangements complied with admissions law; whether the admission arrangements were correctly and impartially applied; and whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case.

The panel may only uphold the appeal at the first stage where it finds that the admission of additional children would not breach the infant class size limit; or it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied; or 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.

In multiple appeals where a number of children would have been offered a place under the preceding paragraph, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel must proceed to the second stage.

The panel must dismiss the appeal at the first stage where it finds that the admission arrangements did comply with admissions law and were correctly and impartially applied; or it finds that the admission arrangements did not comply with admissions law or were not

correctly and impartially applied but that, if they had complied and had been correctly and impartially applied, the child would not have been offered a place; and it finds that the decision to refuse admission was one which a reasonable admission authority could have made.

### **Second stage – comparing cases**

The panel must compare each appellant's case for their child to be admitted and decide which of them, if any, to uphold. Where the school could admit a certain number of children without breaching the infant class size limit (or without needing to take measures to avoid breaching it that would prejudice the provision of efficient education or efficient use of resources) the panel must uphold the appeals of at least that number of children.

### **How will I find out if my appeal has been successful?**

The clerk to the appeal panel will let you and the Admission Authority know the decision by letter within 5 school days wherever possible. If your appeal is successful your child will be offered a place at the school. If the appeal is successful and it is for any other than a September start you must take up the place within a reasonable time period of 2 to 3 school weeks.

### **Can I put my child's name on a waiting list?**

If you are unsuccessful in receiving a place at the school you prefer then your child's name will be kept on a waiting list. Your child's name will remain on the waiting list even if you lose your appeal. In Northumberland waiting lists apply to all year groups and are kept throughout the relevant year. For admissions into transfer year groups, waiting lists will be held until 31st December. No list will be kept after July unless you apply to be placed on it again.

The waiting list is ordered in the same way as the oversubscription criteria set out in the admission authorities' admission arrangements. Length of time on the waiting list is not taken into account. Your child's place on the waiting list can change if other applications are made for your preferred school and those children's names are added to the list.

A place on the waiting list does not affect your right of appeal. Do not turn down the place you have been offered before the appeal. Turning down a place will not give you priority at appeal.

### **Is there anything I can do if my appeal fails?**

The panel's decision is binding, both on you and on the school's Admission Authority, and can only be overturned by the courts.

You can't appeal twice for a place at the same school in the same school year unless the Admission Authority agrees that your first appeal wasn't conducted correctly or they accept that there has been a significant and material change in your circumstances and a further application is allowed but admission is still refused. The decision as to whether a change is 'significant and material' is one for the relevant admission authority to make and its decision is

final. You can apply for a place the following school year and if your application is refused you have the right to appeal again.

The Local Government Ombudsman can investigate complaints about maladministration on the part of an appeal panel for a maintained school. A complaint to the Ombudsman is not a further appeal. It must relate to the administration of an appeal rather than the appeal decision. For academies, the Education Skills and Funding Agency investigates complaints of maladministration.

### **Will my child qualify for free travel to school?**

To qualify for free home to school travel, children of compulsory school age are generally required to attend the nearest suitable school, where the distance from home to school is over 2 miles for children aged under 8 years and over 3 miles for children aged 8 to 16 years (as measured by the local authority according to the published method). In addition, there are National extended transport rights for certain eligible children plus the Council's own criteria that widen the provision of free transport. You are strongly recommended to consult the Council's home to school transport policy, which is published on the Council's website or contact: 01670 624839.

### **Please note**

In respect of a child with a Statement of Special Educational Needs or an Education, Health and Care Plan, or a child undergoing a statutory assessment of Special Educational Needs, decisions regarding placement are made by the Local Authority through the Statutory Assessment and Review procedures. Parental right of appeal is to the Special Educational Needs and Disability Tribunal and not to the admission Appeals panel.