

School Admissions Appeal Panels

Guidance for parents

Appeals Team
Customer Service
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www.hertfordshire.gov.uk/schoolappeals



CONTENTS

	Page
1. When do I have a right of appeal for the school place I want for my child?	2
2. Are there circumstances where I do not have the right to appeal?	5
3. How likely is my appeal to be successful?	5
4. How can I make an appeal?	6
5. School Admission Appeals Timetable	7
6. What if I miss the deadline for returning my appeal?	8
7. What if my child has a Statement of Special Educational Needs (SEN) or an Education, Health and Care Plan (EHCP)?	8
8. What if my child has a disability and I feel there has been discrimination in the refusal to offer a place?	8
9. When and where do appeal hearings take place?	8
10. How much notice will I have of the hearing?	8
11. Who makes the arrangements for my appeal(s)?	9
12. Who will consider my appeal?	9
13. What power do the Appeal Panel have?	9
14. Can I go to the hearing?	10
15. Can I bring anyone with me to help me present my case?	10
16. What if I have a special need or disability?	11
17. What happens if English is not my first language and I need an interpreter?	11
18. Can I bring my child?	11
19. What do I need to do and who can help me?	11
20. What evidence might the panel need from me?	12
21. Will I know in advance what the admission authority's case is?	13
22. Can I withdraw my appeal?	13
23. What happens at the appeal hearing?	13
24. How long will my appeal hearing take?	14
25. What must the Appeal Panel take into account in coming to its decision about my appeal?	14
26. How does the panel decide whether to uphold or reject my appeal?	15
27. How will I find out the outcome of my appeal?	18
28. Is the Appeal Panel's decision final?	19
29. What if I have a complaint about my appeal hearing?	19
30. What if I feel the decision of the Appeal Panel was wrong in law?	20
31. Can I appeal again if my first appeal is rejected?	20
32. Further information: Different kinds of schools and useful addresses	20

This booklet explains how you can make an appeal and how the appeals process works. Please read this document carefully before you complete your form as it contains key information and advice you will need to help you prepare for your appeal.

Please be aware that statistical information on appeals is published annually and can be found at www.hertfordshire.gov.uk/schoolappeals. **Your appeal will be arranged by the Appeals Team within Hertfordshire County Council's Customer Service**, who work independently of the Admission and Transport team that are responsible for the allocation of school places. Contact details are given in this booklet.

Continuing Interest List (CI)

September 2017 admission - Secondary transfer and Under 11s main allocation

The CI list operates quite separately to the appeal process. Children will be placed on the CI list for any school that was ranked as a higher preference to the school allocated, so that they can be considered for a place if a vacancy becomes available. If you do not wish your child to remain on the CI list(s) for these school(s) you **MUST** let the admissions team know immediately. Online applicants should log into their application and must "opt out". Those who applied on paper should contact the admissions team directly. Contact details can be found at the top of your allocation letter. For further information about the CI process, please refer to the "What Can You Do Now?" leaflet available at www.hertfordshire.gov.uk/admissions.

In-year applications

Following an unsuccessful in-year application, parents wishing to be considered for any subsequent places that become available at their preferred school(s) **MUST** specifically request to have their child's name placed on the CI list for each school. For additional information please go to www.hertfordshire.gov.uk/admissions.

Rule 2 Panels

Rule 2 concerns children with a particular medical or social reason to attend their preferred school. Rule 2 panels meet to decide whether the evidence provided for admittance under Rule 2 is compelling and exceptional enough for a place to be allocated under this rule. Rule 2 panels are administered by the Admissions and Transport team and are part of the allocation process and not the appeals process. The panels are made up of senior officers from across the admission authority.

Rule 2 panels should not be confused with the Independent Appeal Panels (IAPs). As part of their considerations, IAPs are required to determine whether the admission rules and arrangements have been properly applied. Where appropriate this will include a review of the Rule 2 process; for example whether the information submitted was considered in line with the process and the decision taken within the band of reasonable responses. An IAP cannot substitute its decision on the evidence for that of the admission authority, if it is within the range of reasonable responses.

1. When do I have the right to appeal for the school place I want for my child?

You have the right to appeal when the school you prefer for your child is full and your application for a place has been refused by the admission authority. This is the local authority (LA) in the case of Community and Voluntary Controlled (VC) schools, and the Governing Body for Foundation, Voluntary Aided (VA), Trust, Free and Studio schools, University Technical Colleges (UTC) and Academies. See section 32 of this booklet for the different types of LA maintained schools.

A few Foundation, VA, Trust, Free and Studio schools, UTC and Academies choose to administer their own appeals. Therefore, if you wish to appeal for one of these schools we ask you to contact the school direct in the first instance.

You can appeal in the following circumstances:

Secondary / Upper Transfer Appeals 2017/2018

- Your child has been refused a place in any of the schools you named on your original application form for transfer to secondary (Year 7) or upper school (Year 9) during the main allocation process for September 2017 admission.

These hearings will take place during the summer term 2017 between 2 May and 16 June 2017. To ensure that your appeal, or appeals, for the school(s) named on your Secondary Application form are heard during the summer term, we **must** receive your appeal(s) by **4pm on 31 March 2017**.

You cannot appeal for a place at any school not named on your original application form.

The table below provides statistics for secondary schools and academies in Hertfordshire whose appeals were administered by the Appeals Team for September 2016 admission.

Appeal Type	Number heard	Number upheld	% upheld
Secondary	516	130	25

Under 11s Appeals 2017/2018 (includes Primary Reception and entry to Junior (Year 3) and Middle (Year 5))

- **Your child has been refused a place in any of the schools you named on your original application form during the main allocation process for September 2017 admission.**

These appeal hearings will take place in the summer term 2017 between 19 June and 21 July 2017. To ensure your appeal, or appeals, for the school(s) named on your Under 11s Application Form are heard during the summer term, we **must** receive your appeal(s) by **4pm on 19 May 2017**.

You cannot appeal for a place at any school not named on your original application form.

Please note :

The vast majority of appeals for Reception will be subject to Infant Class Size legislation. This special legislation limits the grounds on which appeals can be successful if the addition of your child would mean exceeding the infant class size limit of 30.

The table below provides statistics for schools and academies in Hertfordshire whose appeals were administered by the Appeals Team for admission to the Reception class in September 2016. For more information on these appeals please refer to sections 3 and 26 of this booklet.

Appeal Type	Number heard	Number upheld	% upheld
Primary Infant class size only	205	3	1
Under 11's overall	213	6	3

REMEMBER:

IF YOU WISH TO APPEAL FOR MORE THAN ONE OF YOUR PREFERRED SCHOOLS, EACH APPEAL MUST BE LODGED BY THE DATE GIVEN ABOVE TO BE HEARD IN THE SUMMER TERM 2017.

Sixth Form Appeals

- **Your child has been refused admission or, in the case of pupils already at a school, has been refused transfer to the sixth form. This will be due to the specified number of GCSEs not being attained or the specified grades not being gained, or because the school is oversubscribed.**

The requirements for entry to the sixth form should be set out in the school's published admission arrangements.

Children and/or their parents have the right to appeal against an admission authority's decision to refuse the child admission to a school's sixth form. Where the child and the parent appeal separately in respect of the same school, the appeals must be heard together and will be treated as a single appeal with a single decision that is binding on all concerned.

In deciding whether your child should be admitted to the school, panels will take account of your reasons why you feel your child is suitable for admission to the sixth form. It is not for the panel to make an assessment of your child's ability, but it may need to decide whether the original decision that your child was not of the required standard was reasonable.

In cases where an applicant has been refused admission to a particular school because there are more eligible children than places available, the appeal will be heard by following the normal two-stage process described in section 26 of this booklet.

These appeals must be heard within 40 school days of being lodged unless they are conditional upon exam results in which case they must be heard within 30 school days. We should receive your completed appeal form within **12 school days** of you receiving it.

In-Year Admission Appeals

You have the right to appeal for any school that your child has been refused admission to. This might be in any one of the following instances:

- **You want to move your child from one school to another within Hertfordshire and have been refused admission to the school you want**

or

- **You have moved into the area and you have been refused admission to the school you want for your child because the school is full**

or

- **Your child has a disability and you believe he or she has been unlawfully refused a place at the school you want because of this** (please see section 8 of this booklet).

These appeals must be heard within 30 school days of being lodged but we will try to arrange them sooner wherever possible. We ask you to submit your appeal within **12 school days** of receiving notification that your application has been unsuccessful.

If your child has been refused admission to your preferred school(s) and you wish to find out more about available school places in your area, please contact the Customer Service Centre on 0300 123 4043 or 0300 123 4041 text phone.

2. Are there circumstances where I do not have the right to appeal?

You will lose your right to appeal for a school you want for your child if your child has been permanently excluded from two or more schools. In this case you are unable to appeal for two years after the most recent exclusion.

The Local Authority can direct community and voluntary controlled schools to admit twice excluded children. However, the governing bodies of the schools can appeal to an Independent Appeal Panel against this decision.

3. How likely is my appeal to be successful?

Appeals only arise when schools are oversubscribed in a particular age group. Therefore an appeal is more likely to be rejected than upheld.

Infant class size appeals

It is **highly unlikely** that appeals for infant classes of 5, 6 and 7 year olds will be successful due to special legislation that restricts classes to a maximum of 30 pupils with a single teacher. Where the admission authority has refused admission on the grounds that to admit the child would breach the infant class size limit, the circumstances in which an Appeal Panel can uphold an appeal are **severely limited**. In these circumstances the Appeal Panel can only uphold an appeal 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 been complied with 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 make in the circumstances of the case.

When considering whether you wish to appeal you need to be aware that appeals can only be upheld on these limited grounds and therefore the Appeal Panel has very little scope to uphold your appeal. **Your personal reasons for wanting the school, however strong, cannot be taken into account unless any of the above circumstances apply.**

Two-stage process

All appeals, other than those against decisions made on the grounds of infant class size prejudice, must follow the two-stage process detailed in section 26 of this booklet.

The following table provides appeal statistics for schools and academies in Hertfordshire whose appeals were administered by the Appeals Team for admission during the 2015/16 academic year.

Appeal Type	Number heard	Number upheld	% upheld
Secondary	717	181	25
Under 11 Infant class size only	414	9	2
Under 11 overall	1321	276	21

The detailed annual statistical report for the academic year 2015/16, which provides appeal statistics, can be found on our website www.hertfordshire.gov.uk/schoolappeals.

4. How can I make an appeal?

For the main secondary transfer and under 11s admission rounds, parents wishing to appeal should log into their online application at www.hertfordshire.gov.uk/admissions and click on the link "register an appeal".

For in-year applications, parents wishing to appeal should go to the appeals website www.hertfordshire.gov.uk/schoolappeals and click on the link "register an in-year appeal online" using the registration details provided in the outcome letter sent by the local authority.

If you did not apply online, please contact the Appeals Helpline 01992 588548 to request an appeal pack.

IMPORTANT

The appeal form is an important part of your case. If you have not registered your appeal online, you must complete a separate paper appeal form for each school you wish to appeal for, providing your reasons in each case.

Paper appeal forms must be returned to:

Appeals Team
Customer Services (CS)
Postal Point CH0120
County Hall
Hertford, SG13 8DF

E-mail: school.appeals@hertfordshire.gov.uk
Website: www.hertfordshire.gov.uk/schoolappeals
Helpline: **01992 588548**
Fax: **01992 556140**

We will acknowledge receipt of all appeals received in writing, normally within **two working days**. However, this may take longer during the peak appeal months May – July.

WARNING

You should telephone the appeals helpline if you have not received an acknowledgement within 10 working days.

5. School Admission Appeals Timetable

Date	Event
1 March 2017	Secondary Transfer Allocation day.
31 March 2017 by 4pm *	Deadline by which Secondary Transfer appeals must be received by the Appeals Team.
2 May – 16 June 2017 (excluding summer half term)	Secondary Transfer Appeals heard.
18 April 2017	Under 11s Allocation day (includes Primary Reception and entry to Junior and Middle).
19 May 2017 by 4pm *	Deadline by which Under 11 appeals must be received by the Appeals Team.
19 June - 21 July 2017	Under 11s appeals heard.
At least 10 school days prior to appeal	Date and time of hearing confirmed.
At least 7 clear working days prior to hearing	Submission of any additional documentation to support your appeal. * Circulation of all papers to Appeal Panel, admission authority and appellants by clerk.
Within 5 working days of decisions made (although outside the summer term peak we aim for 2 working days)	Notification of the outcome of appeal to appellant and admission authority.
Within 15 working days of decisions made (although outside the summer term peak we aim for 5 working days)	Full decision letter dispatched.

IMPORTANT

*** A short document not previously available such as a doctor's letter will be accepted up to 4 working days prior to your hearing. Information received after this deadline will not be circulated and may not be accepted by the panel.**

6. What if I miss the deadline for returning my appeal?

Your appeal will still be heard as soon as possible following receipt by the Appeals Team of your appeal. However, this may be after your child's proposed date of admission, so we strongly advise that you meet the deadline. Please refer to the "School Admission Appeals Timetable" published on www.hertfordshire.gov.uk/schoolappeals.

7. What if my child has a Statement of Special Educational Needs (SEN) or an Education, Health and Care Plan (EHCP)?

If your child has a statement of SEN or an EHCP the Customer Service Appeals Team is unable to arrange your appeal. Your appeal must be made to the First-tier Tribunal (Special Educational Needs and Disability) instead. For further details please contact the named Special Needs Officer dealing with your case.

8. What if my child has a disability and I feel there has been discrimination in the refusal to offer a place?

If you believe your child has been refused a school place because of his or her disability, you have a right of appeal because this is unlawful under disability legislation. Schools and admission authorities must not discriminate against a disabled child in the arrangements they make for determining admission to school.

The Appeal Panel will take into account the Equality and Human Rights Commission guidance to schools. They must, along with their usual deliberations, consider whether the pupil has been refused admission for a reason that relates to their disability.

9. When and where do appeal hearings take place?

Appeals are generally heard during the day in term time. For Community and Voluntary Controlled schools only, we continue to hold appeals during the last week of July. We have to assume that those appealing (appellants) are available to attend hearings on **all** school days. However, in exceptional cases, such as religious holidays or religious observance days, we will try to avoid dates if given plenty of notice. Appeals are generally heard in the local area of the school that you are appealing for.

10. How much notice will I have of the hearing?

You will receive at least **ten** school days notice of the date and time of your hearing. However, if an Appeal Panel has already been set up for the area covering the school you are appealing for, it may be possible for the appeal to be heard sooner. If this is the case we will contact you and ask if you are prepared to agree to a shorter period of notice.

11. Who makes the arrangements for my appeal(s)?

If you are appealing for a place at a Community or Voluntary Controlled school, where the local authority (LA) is the admissions authority, we will make all the arrangements for your appeal.

If you are appealing for a place at a Foundation, Voluntary Aided, Free, Studio or Trust school, UTC or an Academy, the governors are the admission authority and therefore responsible for the appeal arrangements. However, where there are joint arrangements agreed between these schools and the LA, which is in the majority of cases, all the arrangements for your appeal will be handled by the Appeals Team within Customer Services.

12. Who will consider my appeal?

The Appeal Panel will be made up of three people with at least one from each category listed below:

- lay people, those 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);
- 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.

A Clerk to the Appeal Panel is also present to ensure the appeal is conducted properly and fairly. The Clerk does not have any say at all in the panel's decision but is there to:

- make the necessary administrative arrangements for hearings;
- explain the basic procedure and deal with any questions you may have;
- ensure the relevant facts are presented and recorded;
- make sure each party is heard in turn;
- be an independent source of advice on procedure and on admissions law;
- record the proceedings, decision and reasons;
- notify all concerned of the panel's decision.

13. What power does the Appeal Panel have?

The Appeal Panel will either accept or reject your appeal without commenting on the allocation made by the admission authority. It has no other power.

If the Appeal Panel accepts your appeal, your child must be offered a place at the school you want.

The decision of the Appeal Panel is final.

The Appeal Panel **cannot**:

- enter into a debate with either party on issues raised
- attach any conditions if it allows your appeal
- hear complaints or objections on wider aspects of local admission policies and practice
- reassess the capacity of the school
- order the admission authority to change your position on the CI list for the school
- substitute its decision on the evidence for that of the admission authority, if it is within the range of reasonable responses
- allocate a place at a school other than the school you appealed for.

14. Can I go to the hearing?

You will be invited to go to the hearing and present your case in person. **Most parents take up this opportunity.** Please let us know of any dates that you are unavailable and we will try to avoid these if at all possible. You are also able to decide how to organise your presentation to the Appeal Panel but please note that appeal hearings are scheduled to last between **20 – 30 minutes**, depending on whether the school case is heard as a grouped presentation or dealt with during your individual hearing.

If you do not wish to attend the hearing, your appeal will be considered on the written evidence you provided with your appeal form. This also applies if you do not arrive for your hearing, having previously indicated your wish to attend.

IMPORTANT

Please inform us if you change your mind about attending or decide to withdraw your appeal, so that we can inform the appeal panel and prevent any unnecessary delays to other appellants.

15. Can I bring anyone with me to help me present my case?

You may bring with you a friend or someone who may speak on your behalf and call witnesses. Bearing in mind the importance of maintaining a reasonably informal atmosphere, it should not normally be necessary for you to bring a solicitor. If you do wish to have a legal representative to put your case or wish to bring a friend, adviser or witness, please tell us when you return your appeal form. You also have the right to nominate a representative to attend the appeal in your place.

IMPORTANT

It is not permissible for a representative of the school you are appealing for to accompany you to the hearing or provide letters of support.

16. What if I have a special need or disability?

Do please let us know on the appeal form if you have any disabilities or special requirements and need assistance. We will try to meet your needs wherever possible.

17. What happens if English is not my first language and I need an interpreter?

You may have an interpreter at your appeal hearing. If you would like us to arrange this for you please tell us on the appeal form which language you require. Alternatively, if you would prefer, you may arrange your own interpreter. If you are doing this, please let us know when lodging your appeal or as soon as possible before the hearing.

You may ask a friend or adviser to speak on your behalf in addition to an interpreter.

18. Can I bring my child?

Unless your child is appealing with you, or on their own behalf, for entry to the 6th form it is for you to decide whether the child for whom you are appealing should attend the hearing as a witness. However, it is for the Appeal Panel to decide whether it is appropriate for a witness to remain after giving evidence. Therefore, if your child attends you should arrange for an appropriate adult to be available to escort them if the panel asks them to leave.

We ask you not to bring other children as there are no child care facilities at the venues used for appeals and it is not suitable for children to be cared for in the room where the hearing takes place. We therefore ask that you make alternative arrangements for babies and children to be looked after.

19. What do I need to do and who can help me?

You are responsible for presenting your case, for deciding what you would like to say at the hearing and what written information you want the Appeal Panel to have.

The appeal form will be an important part of your case and you need to fill it in as fully and carefully as possible, attaching any supporting information to it. The Appeal Panel will be sent a copy before the hearing. If you need any help or have any questions, please contact the Appeals helpline on **01992 588548**. **For legal advice please contact the Coram Children's Legal Centre, whose details are in section 32 of this booklet. Other sources of independent advice are your local Citizens Advice Bureau (CAB) and Family Lives (a national charity that works for, and with, parents). Contact details are also given in section 32.**

Additional evidence

Any supporting evidence you wish to submit after lodging your appeal should be received **at least 7 clear working days** in advance of your hearing (not counting the day of postage or the hearing date). Only a short document, such as a doctor's letter not previously available will be accepted up to **4 clear working days** prior to your hearing. Any additional information received after this deadline will not be circulated and may not be accepted by the panel.

When submitting further evidence after returning your appeal, we ask you to note the following requests to help us to present your case in the way that you would like to the independent panel:

- if you are providing any maps highlighting routes or documents containing highlighted text, please send us eight copies;
- if you are providing colour photographs, please send us eight copies mounted individually on A4 paper with a description clearly marked under the photo;
- please do not submit your case either bound or in any kind of folder because this will need to be dismantled in order to copy it;
- please do not submit DVD's, CD's or Videos, these cannot be reproduced for panel members and we do not have the facilities to play them at our appeal venues.

Further evidence should be sent to: The Appeals Team, Postal Point CHO120, Customer Services, Resources Department, County Hall, Hertford SG13 8DF or emailed to school.appeals@hertfordshire.gov.uk.

IMPORTANT

Please note that clerks and panel members are not based in the appeals office and sufficient time is needed to circulate all papers by post.

You cannot submit any evidence after your appeal hearing has taken place.

20. What evidence might the panel need from me?

If your case is based on medical or social reasons you should provide written evidence from a doctor, other medical practitioner or other professional to support this. If your case is based on a house move you should provide written evidence, such as an exchange of contracts or a tenancy agreement. The admission authority may seek independent evidence from you regarding your address, prior to your hearing, which confirms or supports what you say. **We advise you not to appeal until you have exchanged contracts.**

We also advise you to provide evidence, including any letters of complaint and other correspondence, if part of your case for seeking a new school for your child is your dissatisfaction with the current school, such as you believe your child is being bullied. **Please note that a member of the admission authority may check with the school concerned so action can be followed up with the school if necessary. The admission authority may also submit written evidence from your child's current school.**

If you have religious or philosophical reasons for wanting your preferred school, we ask you to provide supporting evidence to help the Appeal Panel have a full and proper understanding of your case.

21. Will I know in advance what the admission authority's case is?

A copy of the admission authority's policy and statement will be posted to you at least **7 working days** before the appeal, unless you have agreed to a shorter period than this. The statement will summarise why it has not been possible to offer a place, which will be either that:

- to admit another child would “prejudice efficient education or the efficient use of resources” at the school; in other words, would have an adverse effect upon educational provision within the school; or that
- infant “class size prejudice” would arise if an additional child were offered a place; in other words, the addition of another pupil would exceed the infant class size limit of 30.

We will also send you a copy of any other document being used by the admission authority as part of its case. All documents that you and the admission authority have sent to the Appeals Team will be passed to the Appeal Panel and Clerk before the hearing. A representative of the admission authority will put forward the school's case to the Appeal Panel. He or she may call the headteacher of the school or another school representative as a witness.

22. Can I withdraw my appeal?

You can withdraw your appeal at any time before the hearing date by telephoning and then confirming your decision in writing to the Appeals Team. Contact details are given in section 4 of this booklet.

23. What happens at the appeal hearing?

The Clerk will greet you and explain the basic procedure and deal with any questions you may have before the hearing. They will then take you into the room for your appeal hearing. The Chair of the Appeal Panel will welcome you and the admission authority representative and introduce everyone present. He or she will explain how your appeal will be conducted and ensure that you are given a proper opportunity to put forward your case.

Appeal Panels must operate according to the principles of natural justice. This means that the conduct of appeal hearings should be based on fairness and, as far as possible, within an informal atmosphere. Due to this, hearings are not recorded except where this may help a parent with a disability.

IMPORTANT

Please bear in mind that this is a formal process with mandatory requirements on procedures. Therefore, you should plan the questions you wish to ask the admission authority and what you wish to tell the panel in advance of your hearing and be prepared to answer questions.

The admission authority will put their case first and you will be given the opportunity to ask questions. If there are multiple appeals for the same year group and school, then this stage of the hearing is likely to take place with other parents present whose appeals are being heard on the same day.

You will then be given the opportunity to give all your reasons for wanting your preferred school(s) and why you feel you should be offered a place there. This stage of the hearing will be conducted in private without other parents present. The admission authority representative will be allowed to ask you questions.

You will be asked at the end of your presentation whether you have raised all the issues you wanted to and whether there are any additional points you wish to make before moving to summing up. **It is important that you have told the Appeal Panel everything at this point as you will not be able to introduce any new information once the panel moves on to the summing up stage. To ensure that the panel has fully understood your case, the Chair of the panel will usually provide a synopsis of what you have told them at this point before proceeding to summing up.**

The admission authority representative and you will then be invited to sum up before leaving the hearing room together.

Please note that panel members may ask questions at any time throughout the hearing.

24. How long will my appeal hearing take?

Individual hearings are scheduled between 20 - 30 minutes depending on whether the school case is heard as a grouped presentation. However, for individual appeals additional time is given where more than one school or child is scheduled at the same hearing. We therefore remind you to prepare any questions for the admission authority and the key points of your case in advance of the hearing. The Appeal Panel will have already read the written information submitted by you and the admission authority.

25. What must the Appeal Panel take into account in coming to its decision about my appeal?

Appeal Panels are required to take into account your preference of schools. They must also consider the admission arrangements published by the admission authority and how the local co-ordinated scheme says the decision on what places to offer will be made if an applicant meets the rules for admission to more than one school.

However, please note that the school admission authority is not required to comply with your preference of school if:

- to admit your child would “prejudice the provision of efficient education or the efficient use of resources”. In the case of infant age classes, prejudice may also arise because the admission of another child would breach the infant class size limit of 30 and there are no measures the admission authority could take to avoid this without prejudicing the provision of efficient education or efficient use of resources
- your preferred school is wholly selective by high ability or by aptitude and the admission of your child would be incompatible with such selection under the admission arrangements

- your child has been permanently excluded from two or more schools. Here the requirement to meet your preference is lost for two years after the last exclusion. This does not, however, apply where a governing body subsequently decides not to reinstate your child following a direction to reconsider their decision to uphold the permanent exclusion by an independent review panel
- a higher preference place has been offered to your child, as identified under co-ordinated arrangements.

26. How does the panel decide whether to uphold or reject my appeal?

Infant class size appeals

Legislation dictates that when a place has been refused on the basis that it will take an infant class over the maximum number of 30 pupils to one teacher the Appeal Panel can only **review** the decision of the admission authority to refuse your child a place in an infant class at your preferred school.

The admission authority will have refused admission on the grounds that it would breach infant class size limits and there are no measures that could be taken to avoid this without prejudice to efficient education or the efficient use of resources. The Appeal Panel cannot intervene on the basis that it disagrees with the decision that such prejudice has occurred, nor can the Appeal Panel consider whether or not that prejudice outweighs parental factors.

The Appeal Panel can only consider whether the admission authority has made a reasonable case for stating that a breach of the infant class size limit would arise.

It is not enough for the admission authority to show that the admission number for a school has already been reached; it should demonstrate what measures it would have to take to comply with class size limits if an additional child were to be admitted.

The Appeal Panel must also consider whether the admission of an additional child would cause a future breach of infant class size limits. This could occur, for example, where a school has a published admission number of 45 (in other words, can accept 45 children into each year group), arranged in 2 classes of 23 and 22 in the Reception Year, which become 3 mixed age Year 1 and 2 classes of 30 pupils each. Admitting an extra child to the Reception year group would mean classes exceeding 30 pupils in one of the Year 1 and 2 classes in the future therefore breaching the infant class size limit.

The Appeal Panel will consider whether the admission authority's published admission arrangements were applied correctly in your child's individual case and whether it agrees that the admission arrangements comply with the mandatory requirements.

However, it is not enough to prove that there has been a mistake during the implementation of the admission arrangements. The Appeal Panel can only uphold an appeal where it is clear that a child would have been offered a place if the admission arrangements had been properly implemented. There may be cases where the child would still not have been offered a place despite the correct implementation of the admission arrangements. In order for an appeal to be successful, the Appeal Panel must be satisfied that, had the arrangements been applied properly, the child would have been admitted to the school.

If the Appeal Panel discovers any unlawful admission criteria during its consideration of the case, it must refer these immediately to the local authority and the admission authority, where this is not the local authority.

If the Appeal Panel is satisfied that the admission arrangements did comply with mandatory requirements and were correctly and impartially applied, the Appeal Panel will consider whether the decision to refuse your child admission to your preferred school was one that a reasonable admission authority would make in the circumstances of your case. An appeal is unlikely to be upheld on this basis, as the Appeal Panel will need to be satisfied that the decision was “perverse” in light of the admission arrangements, that is it was “beyond the range of responses open to a reasonable decision maker” or it was “a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it”. In other words, it is not the usual meaning of reasonable, but a far stronger meaning. It is the legal test and one that is known as the “Wednesbury unreasonable”, which refers to a court case.

If an Appeal Panel upholds an appeal the child has a legal right to a place at the school and will be offered a place there.

Multiple appeals – comparing cases

If the Appeal Panel is hearing multiple appeals for the same school it may find that a number of appeals could be upheld but that if all those places were offered then it would indeed seriously prejudice the provision of efficient education or efficient use of resources. In these circumstances the Appeal Panel must proceed to a further stage where it must compare each appellant’s case and decide which to uphold. Where a school could admit a certain number of additional children without breaching the infant class size limit (or without needing to take measures to avoid breaching it that would not prejudice the provision of efficient education or efficient use of resources) then the panel **must** uphold appeals for at least that number of children.

Two-stage process appeals

For appeals not subject to infant class size legislation the Appeal Panel’s decision will follow a two-stage process.

Stage 1 (the factual stage)

This stage is about establishing the facts. The Appeal Panel considers whether:

- the school’s published admission arrangements comply with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998;
- the school’s published admission arrangements were correctly and impartially applied to your child;
- to admit additional children would cause “prejudice to efficient education or the efficient use of resources”.

The Appeal Panel will need to establish whether the relevant oversubscription criteria for the school, and coordinated admission arrangements, comply with mandatory requirements and were correctly applied to your child. If not, it must decide whether your child would have been offered a place had they been.

If it is clear that your child would have been offered a place if the admission arrangements had been properly applied or had complied with the mandatory requirements, then the Appeal Panel must uphold your appeal, **unless** there is a significant number of children affected and to admit all would cause serious prejudice. If the Appeal Panel finds the latter it must proceed to Stage 2.

The Appeal Panel will then need to decide whether, despite the fact allocations had been made up to the published admission number, the admission of a further child would “prejudice the efficient education or efficient use of resources”. It is for the representative of the admission authority to satisfy the Appeal Panel that prejudice would arise. The Appeal Panel will want to be satisfied that the admission authority has made its case and must also consider any arguments about the effect an additional child would have on the school in the current and following academic years.

IMPORTANT

At this stage you should raise any issues or questions you have regarding the case made on behalf of the school and/or how places were allocated.

If the Appeal Panel finds that the admission of an additional child(ren) would not cause “prejudice” it must uphold the appeal. However, in multiple appeals where the number of appeals exceeds the number of additional children that could be admitted without causing prejudice, the Appeal Panel must proceed to Stage 2.

Equally, where the Appeal Panel is satisfied that the admission authority representative has been able to prove that there would be “prejudice” to admit another child then the Appeal Panel must move on to the second stage.

REMEMBER

It is not the role of the Appeal Panel to reassess the organisation or capacity of the school but it should consider the impact of admitting additional children in terms of the organisation and size of classes, availability of teaching staff and the effect on children already at the school.

If the Appeal Panel identifies any unlawful admission criteria during its deliberations it must refer these immediately to the LA and the admission authority, if this is not the LA.

Stage 2 (the balancing stage)

This stage is where the Appeal Panel is required to balance the arguments.

The Appeal Panel must consider whether your grounds for your child to be admitted to your preferred school outweigh any “prejudice” that would be caused to the school by the admission of another child. The Appeal Panel will use its discretion balancing between the degree of prejudice and the weight of evidence provided by the appellant. The Appeal Panel will take into account your reasons for expressing a preference for the particular school, for example, what that school can offer your child that others cannot. It will also need to consider the consequences for the school and other children of complying with your wishes, before making a decision.

The admission authority may submit as part of its evidence to the panel that your child has been allocated a place at another school. This might be of particular relevance where the home to school distance forms part of the grounds for appeal. The Appeal Panel will take into account everything you and the admission authority's representative puts forward at the hearing as well as everything presented in writing. The Appeal Panel is not able to take into account the position of your child on any continuing interest list.

IMPORTANT

At this stage you should raise any issues or questions you have regarding why your child was not offered a place at the school and how your application was processed.

At the balancing stage, decisions on individual appeals are based on your specific circumstances. However, if the Appeal Panel finds there are more cases that outweigh prejudice than the school can admit, it must compare cases and uphold those with the strongest case for admission.

Applicable to all appeals

It is important that you or your representative put forward all your reasons at each stage that you believe are important to your case, and that you summarise the key points at the end of the hearing.

If your appeal is part of a grouped set of appeals being heard for the same school over a number of days, please be aware that no decisions can be made by the Appeal Panel until all appellants have been given an opportunity to be involved in all stages of the appeal process.

27. How will I find out the outcome of my appeal?

We will write to you to tell you what the Appeal Panel has decided. We **cannot** give you the outcome of your appeal over the telephone, so please **do not telephone us for the result**.

If your appeal is heard during the autumn or spring term we will normally inform you of the result within **7 days** (5 working days) of your hearing. However, during the summer term, when many appeal hearings take place, decisions can take much longer. This is because panels are conducting multiple appeals for the same year group and school and are required to hear all the appeals for a particular school before making any decisions. We will send you a short letter informing you of the Appeal Panel's decision within a few days of the decision being made. This will be followed approximately two weeks later by a letter providing the reasons for the panel's decision. The Clerk to the Appeal Panel should be able to say at the hearing when you are likely to hear the outcome of your appeal.

If you have any queries about your appeal hearing, or the letter informing you of the decision, you should telephone the Appeals Team helpline on 01992 588548.

28. Is the Appeal Panel's decision final?

Yes, the decision of the Appeal Panel is binding upon the admission authority if your appeal is successful. If your appeal is unsuccessful there is no further right of appeal to any officer or elected member of the county council or admission authority against the Appeal Panel's decision.

It is not possible in law for the admission authority or the county council to reverse the decision of an Appeal Panel and therefore you cannot ask for the panel's decision to be reviewed.

If your appeal is unsuccessful you should contact the Customer Service Centre on 0300 123 4043 and ask to speak to your local Admissions and Transport Officer who will be able to let you have the names of schools with available places.

29. What if I have a complaint about my appeal hearing?

COMMUNITY, VOLUNTARY CONTROLLED AND AIDED SCHOOLS

If you feel that your appeal hearing was not properly or fairly conducted you can complain to the Local Government Ombudsman. However, the Local Government Ombudsman will only investigate your complaint if the Ombudsman feels there may have been maladministration causing injustice to you. **This is not therefore a further right of appeal to have your case reconsidered.** Your complaint must relate to issues such as a failure to follow correct procedures or improper behaviour, rather than a belief that the decision is wrong.

Very occasionally following investigations the Ombudsman finds there has been maladministration that might have caused you injustice, in such circumstances they might suggest that a fresh appeal should be offered with different panel members.

Although the decision of the original Appeal Panel is final, admission authorities do have the discretion to arrange a new panel following an Ombudsman's recommendation and can undertake to accept the decision of the new panel should it uphold an appeal.

ACADEMIES (including those that are Free Schools) University Technical Colleges and Studio Schools

The Secretary of State is responsible for complaints about appeals for Academies, and has appointed The Education Funding Agency (EFA) to investigate these complaints on his behalf. The EFA can only investigate complaints about appeals that did not follow the procedures set out in the School Admission Appeals Code 2012.

The Secretary of State **cannot** review decisions of individual Appeal Panels but can consider:

- whether the Appeal Panel was correctly constituted and
- whether the admission authority has acted reasonably in exercising its functions in respect of the appeal process.

Neither the EFA or the Ombudsman can overturn an Appeal Panel's decision, these decisions can only be challenged in court through Judicial Review as stated in section 30.

Details about how to make a complaint about the way your appeal was conducted can be found at : www.gov.uk/schools-admissions/appealing-a-schools-decision.

30. What if I feel the decision of the Appeal Panel was wrong in law?

If anyone concerned with the appeal - you as the parent or the admission authority - consider that the decision of the Appeal Panel was legally in error, they could apply for a judicial review. If a judicial review were granted, the Court would consider the lawfulness of the Appeal Panel's decision. If it found the Appeal Panel's decision to be unlawful or unreasonable (irrational or legally perverse), it could overturn the decision or order the admission authority to set up a fresh appeal hearing with new panel members. You should seek independent legal advice in relation to this.

31. Can I appeal again if my first appeal is rejected?

No. Admission authorities will not consider repeat applications for the same school year unless you have a significant change in circumstances relevant to your application. Unless a repeat application to the admission authority is allowed, no fresh appeal can arise.

32. Further information: Different kinds of schools and useful addresses

Community schools

In Hertfordshire, these are schools that follow the admission rules set and published by the local authority (LA), Hertfordshire County Council. The LA is responsible for the allocation of places.

Voluntary Controlled (VC) schools

These schools are some Church of England schools. They are controlled by the LA and follow the admission rules set by the LA. The LA is responsible for the allocation of places.

Voluntary Aided (VA) schools

These schools are mainly Church of England, Roman Catholic or Jewish schools. The governing body of each school sets the admission rules. The school governors are responsible for the allocation of places.

Foundation schools

The admission rules are set by the governing body of each school with the approval of the Department for Education and you should carefully follow the advice the school gives you. The school governors are responsible for the allocation of places.

Trust schools

A government funded school supported by a charitable trust. The governing body of each school sets the admission rules. The school governors are responsible for the allocation of school places.

Academies (including those that are Free Schools), University Technical Colleges and Studio Schools

These are state-funded, non fee-paying independent schools set up under a funding agreement between the Secretary of State and the proprietor of an Academy. These schools are run outside the LA's jurisdiction and are responsible for the allocation of school places.

Useful addresses

The Appeals Team
Customer Service - Postal Point CHO 120
County Hall
Hertford, SG13 8DF
Helpline Tel: 01992 588548
E-Fax: 01992 556140
Website :
www.hertfordshire.gov.uk/schoolappeals
E-mail : school.appeals@hertfordshire.gov.uk

Education Funding Agency
Tel: 0370 000 2288
Monday – Friday 9am to 5pm
For help with making a complaint (Academies only), go to the school appeals website above for a link to the online complaint form.

Coram Children's Legal Centre
Tel: 0300 330 5485 for education law
0300 330 5480 for family law
provides free, independent advice on all areas of child, family and education law through their Child Law Advice Centre
Website : www.childlawadvice.org.uk

Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH
Tel: 0300 061 0614
Website : www.lgo.org.uk
*For help with making a complaint, including a link to the online complaint form.
(Community, VC, Foundation and VA school appeals)*

Family Lives
Tel: 0808 800 2222
Website : www.familylives.org.uk
Family Lives is a national family support charity providing help and support in all aspects of family life.

Citizens Advice Bureau
local branch in yellow pages

If you would like a translation of this document or a version in large print, please telephone 01992 588548.

For information in any other form, or if you need an interpreter, please contact the number given above.

Bengali: বাংলা, ভাষায় তথ্যাবলীর জন্য অথবা আপনার একজন দোভাষী অর্থাৎ ইন্টারপ্রিটরের দরকার হলে, অনুগ্রহ করে উপরে যে সব টেলিফোন নম্বর দেওয়া হয়েছে সেগুলোতে ফোন করে যোগাযোগ করুন।

Chinese: 如果需要漢語版本, 或需要口譯人員, 請用上述號碼聯繫。

Italian: Per informazioni in italiano, o se desidera l'aiuto di un'interprete, contatti i numeri elencati in precedenza.

Punjabi: ਪੰਜਾਬੀ, ਏ ਵਿਚ ਜਾਣਕਾਰੀ ਏ ਲਈ ਜਾਂ ਜੇ ਤੁਹਾਨੂੰ ਇੰਟਰਪ੍ਰੈਟਰ ਦੀ ਜ਼ਰੂਰਤ ਹੈ, ਤਾਂ ਕ੍ਰਿਪਾ ਕਰਕੇ ਉੱਪਰ ਦਿੱਤੇ ਨੰਬਰਾਂ 'ਤੇ ਸੰਪਰਕ ਕਰੋ।

Turkish: Sağlanan hizmetlerle ilgili bilgileri Türkçe, istiyorsanız ya da bu dillerden çevirmene gereksinim duyarsanız, lütfen yukarıdaki telefon numaralarını arayınız.

Urdu: اردو میں معلومات کے لئے، یا اگر آپ کو ایک انٹرپریٹر کی ضرورت ہے، تو براہ مہربانی اوپر دیئے ہوئے نمبروں پر رابطہ کریں۔

Polish: Jeśli chcieliby Państwo uzyskać informacje w innym formacie lub potrzebują tłumacza, proszę zadzwonić pod wyżej wymieniony numer.

Hertfordshire - County of Opportunity

Our services include:

- Care for older people
- Libraries
- Support for schools, pupils and parents
- Fire and Rescue
- Fostering and adoption
- Support for people with disabilities
- Admission to schools
- Road maintenance and safety
- Protection for adults and children at risk
- Trading standards and consumer protection
- Household waste and recycling centres
- Support for carers

To find out about your local county council, visit:

www.hertfordshire.gov.uk

www.twitter.com/hertscc

www.facebook.com/hertscountycouncil

To find out who your County Councillor is and how to contact them, visit:

www.hertfordshire.gov.uk/councillors

You can access the internet for free at any Hertfordshire library.

January 2017

Hertfordshire County Council
County Hall, Pegs Lane
Hertford SG13 8DF