

North Tyneside Admission Appeals Service

Procedure Guide

Infant Class Size School Admission Appeals

This guide is for parents or guardians who wish to appeal against the decision of a school's admission authority not to admit their child to Reception, Year 1 or Year 2 of their preferred school due to infant class size regulations. If you are appealing for a place in another year group or were refused a place in Reception, Year 1 or Year 2 for other reasons your appeal will be dealt with under the School Admission Appeals Procedure Guide.

1. Infant Class Size Appeals

The School Standards and Framework Act 1998 requires infant classes (those which contain pupils who reach the age of 5, 6 and 7 during the school year) to be limited to a maximum of 30 pupils with a single teacher.

The admission authority has a duty to admit a child to the parent/guardian's preferred school unless the admission of an additional child would breach the infant class size limit and there are no measures it could take to avoid this without prejudicing the provision of efficient education or efficient use of resources.

The School Standards and Framework Act allows a parent/guardian the right of appeal against the admission authority's decision to refuse a place at the school. See the [Essential Guide](#) for information on the number of appeals and their outcomes for your preferred school.

There are **limited circumstances** in which a panel can uphold an infant class size appeal, these are:

- a) the admission of an additional child would **not** breach the infant class size limit of 30 pupils; **or**

- b) that the admission arrangements did not comply with admissions law **and** the child would have been offered a place if the arrangements had complied with admissions law; **or**
- c) that the admission arrangements had not been correctly and impartially applied **and** the child would have been offered a place if the arrangements had been correctly and impartially applied; **or**
- d) the decision to refuse a place at the school was **not** one which a reasonable admission authority would have made in the circumstances of the case.

Your appeal can only be successful if one of the above apply.

Your appeal will be determined at a hearing of the Education Appeal Panel, which is independent of the Council, the admission authority and the school. The panel must act in accordance with government regulations and the School Admission Appeals Code¹.

2. The Education Appeal Panel

An education appeal panel will normally consist of three members appointed from the following categories:

- a) People who are eligible to be lay members. This means people without personal experience in the management of any school or the provision of education in any school (disregarding experience as a school governor or in another voluntary capacity). There must be at least one lay member on the panel.
- b) People who have experience in education, who are acquainted with educational conditions in the admission authority's area, or who are parents of registered pupils at a school. There must be at least one panel member from this category.

¹ The School Admissions (Appeals Arrangements) (England) Regulations 2012 and the School Admissions Code 2022.

The role of the education appeals panel is to consider the cases put forward by both sides (i.e. you and the admission authority) and come to a decision on whether to uphold your appeal and admit your child to your preferred school or not.

The decision of the appeal panel is binding on both you and the admission authority.

3. The Clerk

The clerk to the education appeals panel will be an officer from the Council's Democratic Services team. The clerk's role is to make the necessary administrative arrangements for the hearing and to offer advice on procedure to the panel, appellants and the admission authority. The clerk will be present during the hearings to ensure that the relevant facts are established and that the hearing is fair to all parties. This officer is **not** involved in admission decisions and has no connection with the admission authority.

If you have any questions about the education appeals procedure please contact the Clerk to the Education Appeals Panel on 0191 643 3622/7155/3442/2655/5320 or email education.appeals@northtyneside.gov.uk

4. The Appellant

When you submit an appeal on behalf of a child you become the appellant.

While your appeal must be submitted in writing (as must the admission authority's reasons for refusing your application for a place), you are given an opportunity to attend the hearing to present your appeal in your own words to the panel and also to hear and challenge the admission authority's explanation of its decision.

You can choose to be accompanied at the hearing by a friend or be represented by a friend or some other person. An employee of the school in question cannot attend in this capacity or provide letters of support.

If you wish to bring a witness with you, please let the clerk know as soon as possible. The evidence to be given by witnesses must be relevant to the issues involved in the appeal and not just repeat information provided by another party. If you need further advice please contact the clerk.

If you do not wish to or are unable to attend the hearing, your appeal will be decided on the written information you have provided. The admission authority would still be allowed to attend the hearing and present their case to the panel.

5. The Admission Authority

The admission authority is the body responsible for setting admissions criteria and procedures and for allocating places in accordance with those criteria. The local authority (North Tyneside Council) is the admission authority for the community schools within its area. The governing body is the admission authority for foundation schools (including Trust schools), voluntary aided schools and academies.

The admission authority must provide information to the clerk on how the admission arrangements have been applied to your child, the reasons for the refusal of a place and an explanation as to how the admission of an additional child would breach the 30 pupil class size limit, what qualifying measures would need to be taken and how this would prejudice the provision of efficient education and/or the efficient use of resources. This information will be sent to you before the hearing.

If the panel upholds your appeal, the admission authority must admit your child to the school.

6. Before the Hearing

The clerk will give you at least 10 school days notice of the date on which your appeal will be heard. This notification will include a deadline for the submission of any further information relating to your appeal that you would like the panel to consider. There may be circumstances in which 10 school days notice is not possible, for example the submission of an appeal for a school for which an appeal panel has already been arranged to meet in 8 school days. In these cases your consent will be required to proceed using a shorter timescale.

Around one week before the hearing the clerk will send you all of the documentation relating to your appeal which will be considered by the panel, including anything which has been submitted by you. If you agreed to waive the 10 school days notice of the date of the meeting, this timescale may be shorter.

7. Appellant's submission

An infant class size prejudice appeal can only be upheld in limited circumstances (see paragraph 1). You can raise (either in writing prior to the appeal or in person at the appeal hearing) anything that you believe shows that your case falls into one of those categories. You are encouraged to provide any written documentation you may have that supports your grounds for appeal.

If you intend to provide any documents, information and/or evidence to support your case please submit these by the date specified in the letter which confirms the date of the hearing; this date is usually 6 working days before the hearing date. Any information submitted after this date will only be allowed by the agreement of the appeal panel, which will take into consideration its significance and the effect of a possible need to adjourn the hearing.

8. The Appeal Hearing

If you are appealing after being refused a school place on 'national offer day' then it is likely that your appeal will be heard as a multiple appeal. A multiple appeal is when there is more than one appeal for the same year group at a school.

The procedure outlined below is for when there is only one appeal for a year group at a school and is different for a multiple appeal. The procedure for a multiple appeal is explained in paragraph 9.

The hearing will be as informal as possible and will be heard in private. The panel will be considering whether:

- a) The admission of an additional child would breach the infant class size limit.
- b) The admission arrangements were lawful².
- c) The admission arrangements were correctly and impartially applied in your child's case.
- d) The decision to refuse a place at the school was one which a reasonable admission authority would have made in the circumstances of the case.

² Did they comply with the mandatory requirements of the Schools Admission Code and Part 3 of the Schools Standards and Framework Act 1998.

The threshold for a panel to determine that an admission authority's decision to refuse admission was unreasonable is high. The panel will need to be satisfied that the decision to refuse to admit your child was 'perverse in the light of the admission arrangements', i.e. it was 'beyond the range of responses open to a reasonable decision maker' or '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'.

8.1 At the start of the hearing the Chair will welcome all parties and introduce those present, then the following procedure will be followed:

- i) The representative of the admission authority will explain the admission arrangements, the application of the admission arrangements and why your child had been refused admission, including the steps which would need to be taken should another child be admitted over the 30 pupil class size limit.
- ii) You and the panel members will ask any questions of the admission authority's representative and challenge their case.
- iii) You will put your case for your child's admission to your preferred school.
- iv) The admission authority's representative and the panel members will ask questions of you.
- v) The admission authority's representative will sum up its case.
- vi) You will be given the opportunity to sum up your case.
- vii) You leave the meeting, together with the admission authority's representative, to enable the panel to make a decision on questions a) to d) above in private.

The decision of the panel will be sent to you in writing, usually within seven calendar days of the hearing. If you would like to know the panel's decision before receiving the written notification you can discuss what options are available with the clerk on the day of the appeal.

The clerk will then return to the panel to provide advice on law and procedure. They will take no part in the decision making process. If you do not attend the hearing, the admission authority's representative will still leave the meeting **before** the panel considers its decision. At no point will either you or the admission authority's representative be left alone with the panel members.

8.2 If the panel decides that:

- a) the admission of additional children would **not** breach the infant class size limit; **or**
- b) that the admission arrangements did not comply with admissions law **and** your child would have been offered a place if the arrangements had complied; **and/or**
- c) that the admission arrangements had not been correctly and impartially applied **and** your child would have been offered a place if the arrangements had been correctly and impartially applied; **and/or**
- d) the decision to refuse a place at the school was not one which a reasonable admission authority would have made in the circumstances of the case.

Then your appeal will be upheld. The panel can **only** uphold your appeal if it finds that **any** of a) to d) apply.

9. Multiple appeals

Where a number of appeals have been received for the same year group at a school it is expected that the same panel will consider all the appeals for that school at the same meeting. In those circumstances the procedure outlined in paragraph 8 will be divided into two parts with all appellants invited to attend Stage one Part I at the same time with a private individual appointment for Stage one Part II.

9.1 Stage one – examining the decision to refuse admission

To ensure all appellants hear the same evidence from the admissions authority regarding the admission arrangements but to allow appellants privacy for their own circumstances, there are two parts to stage one infant class size multiple appeals.

At the start of the hearing the Chair will welcome all parties and introduce those present, then the following procedure will be followed:

9.2 Part I

The panel will first decide on whether:

- a) the admission of any additional children would breach the infant class size limit; and

b) if the admission arrangements were lawful.

To allow the panel to do this, the following procedure will be followed:

- i) The representative of the admission authority will explain the admission arrangements, the application of the admission arrangements and why your and the other appellants' children had been refused admission, including the steps which would need to be taken should another child be admitted over the 30 pupil class size limit.
- ii) You, other appellants and the panel members will ask any questions of the admission authority's representative and challenge their case.
- iii) You and the other appellants leave the meeting, together with the admission authority's representative, to enable the panel to make a decision on a) and b) above.

The clerk will remain with the panel to provide advice on law and procedure. They will take no part in the decision making process. At no point will either you or the admission authority's representative be in the room alone with the panel.

At this stage the panel can **only uphold** your appeal if it decides that a) applies and the admission of additional children would **not** breach the infant class size limit.

If the panel does decide that a) applies then your appeal and those of the other appellants will be upheld and the hearing will conclude **unless** the number of children appealing for a place is a number that would seriously prejudice the provision of efficient education or the efficient use of resources in the school (see paragraph 1). For example there are 20 appellants but the panel concluded that the school could take a further 10 children without prejudicing the provision of efficient education or the efficient use of resources.

In these circumstances the hearing will continue to Part II to hear about your individual circumstances and then the Second stage – Comparing cases, before it can make its decision.

If the panel decides that admitting more children would breach the infant class size limit but that b) applies and the admission arrangements were unlawful, the appeal must proceed to Part II to allow you to present your case in private and for the panel

to determine whether, if they had been lawful, your child would have been offered a place.

If the panel decide that neither a) or b) above applies then the appeal will proceed to Part II.

9.3 Part II

In Part II the panel will consider the particular circumstances of your case. This part of the hearing will be held in private without the attendance of the other appellants at the time sent to you by the clerk in advance of the hearing.

The order of proceedings will be as follows:

- 1) The representative of the admission authority will explain how the admission arrangements were applied to your child.
- 2) You and the panel members will ask any questions of the admission authority's representative.
- 3) You will put your case for your child's admission to your preferred school.
- 4) The admission authority's representative and the panel members will ask questions of you.
- 5) The admission authority's representative will sum up its case.
- 6) You will be given the opportunity to sum up your case.
- 7) You leave the meeting, together with the admission authority's representative.

No decision will be taken on any individual case until Part II and, if necessary Stage two, for all the appeals for the school have been completed.

At this stage the panel can only uphold your appeal if it decides that:

- c) the admission arrangements had not been correctly and impartially applied to your child **and your child** would have been offered a place if the arrangements had been correctly and impartially applied; **and/or**
- d) the decision to refuse a place at the school was not one which a reasonable admission authority would have made in the circumstances of the case.

If your appeal proceeds to Part II because at Part I the panel found that to admit another child would not breach the infant class size limit but to admit all of the appellants would seriously prejudice the provision of education at the school, the panel will be taking their decision based on c) and d) above **and then** in accordance with Stage Two – comparing cases.

If your appeal proceeds to Part II because the panel found the admission arrangements were unlawful they will consider whether if they had been lawful your child would have been offered a place at the same time as considering c) and d) above.

- 9.4** If the admittance of the number of children whose appeals the panel decides have met the limited circumstances required for an appeal to be upheld would seriously prejudice the provision of efficient education or the efficient use of resources in the school, the panel must proceed to Stage two – Comparing cases.

9.5 Stage Two – comparing cases

Stage two will only be undertaken where, at either Part I or Part II of Stage one, the number of appellant children which meet the limited criteria for upholding an appeal would seriously prejudice the provision of efficient education or the efficient use of resources at the school if they were to be admitted.

At this stage the panel will compare the cases of the children to be admitted for each of the appellants who met the criteria and decide which of them to uphold.

There is a flowchart of this process on page 13.

10. After the Hearing

If your appeal is successful you may wish to contact the school to make arrangements for your child's admission. The school will be informed by the clerk of the appeal outcome.

If your appeal is unsuccessful you may wish to contact the Council's Access Team to discuss the alternatives for your child's education, tel: 0191 643 8724.

There is no further right of appeal for the same school for the same academic year unless, in exceptional circumstances, the admission authority has accepted a second application from you and that in turn has been refused.

If you feel there has been maladministration by an education appeals panel you can make a complaint to the Local Government and Social Care Ombudsman. The contact details are as follows:

Local Government and Social Care Ombudsman
PO Box 4771
Coventry
CV4 0EH

Telephone: 0300 061 0614

Website: <http://www.lgo.org.uk>

The Ombudsman may investigate complaints of maladministration in the conduct of an appeal hearing or in respect of its organisation, however, please note that the Ombudsman can only request a re-hearing and cannot overturn the decision of any appeal panel.

If the school is an Academy then you may complain to the Education Funding Agency, via the website: www.gov.uk

An appeal panel's decision can only be overturned by the courts where the appellant or admission authority is successful in a judicial review of that decision.

Admission Appeals – Infant Class Size

