

# WOKINGHAM SCHOOL ADMISSION APPEALS

## A GUIDE TO ADMISSION APPEALS

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For further information

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## Introduction

This booklet is designed to help you through the Appeal process. It is hoped that after reading it you will have a clearer idea of how the process works, and provide you with advice and help in preparing your case in appealing against the Admission Authority's decision not to offer your child a place at your preferred school(s).

The School Standards and Framework Act (SSFA) 1998, as amended by the Education Act 2002, and the Codes of Practice on School Admissions and School Admission Appeals produced by the Department for Education (DfE), as defined by case law, govern all school admission appeals. These Codes of Practice have been taken into account in preparing the booklet. Please see details about these documents at the back of this booklet.

The School Standards and Framework Act 1998 requires all Admission Authorities to make arrangements enabling parents, to appeal against an Admission Authority's decision to refuse admission to a preferred school.

Children have a right of appeal against an Admission Authority's decision to refuse them admission to a school sixth form or to a school at which they wish to receive education, other than sixth form education, once they have ceased to be of compulsory school age.

The booklet will help you to:

- understand the process;
- know what will happen at an appeal hearing;
- understand how Appeal Panels make their decisions.

## Why Appeal?

### **1. I thought I could choose and get the school I wanted my child to attend?**

When you applied for a school place for your child you will have listed up to four preferences. Officers from the Admissions Team in the Admission Authority will have allocated a place using the Authority's admission criteria. If your child has not been offered a place at the school of your preference you have the right to appeal against the Admission Authority's decision. Appeals can be made in relation to any school year group up to and including the age of 18.

The law gives you the opportunity to put your case to an Independent Appeal Panel known as the IAP, whose decision is made independently of the Admission Authority. The appeal hearing is your chance to put your side of the argument – to have your say.

The SSFA 1998 Section 86 allows you to express a preference, and give reasons for that preference, regarding the school you would like your child to attend. However, you do not have an absolute right to choose a school because the law states that the Admission Authority need not meet your preference if the Year Group has reached its Admission Number and, as a result, compliance with your preference would “prejudice the provision of efficient education or the efficient use of resources”. This means that, for example, the school would have trouble in accommodating an extra child in the classroom because of space or the number of desks or computers available, or that there would be Health and Safety issues in play areas, science laboratories, or technical areas.

### **2. When can I appeal?**

You can appeal against an Admission Authority's decision to refuse admission at any of your preferred schools.

Appeals are normally heard for the year group applied for, to start in that year group; if a parent wishes to appeal for the next year group (applicable after the May half-term prior to a September start), a parent will be asked to submit a new application form for that year group. The later application will supersede the previous application.

### **3. Why do I have to come to an Appeal Panel hearing?**

The appeal hearing is your chance to put your side of the argument – to ask and answer questions - to have your say and clarify any issues you may have. You will have the opportunity to put your case to an Appeal Panel, which is totally independent of the Admission Authority.

### **4. Are there circumstances where I do not have a right to appeal?**

You do not have the right to appeal for a school if your child has been permanently excluded from two or more schools and, at least one of these exclusions took place on or after 1 September 2018.

You also do not have the right to appeal if you have already appealed for that school for the same school year. (Please refer to paragraph 44 for clarification)

### **5. What if my child has an Education Health and Care Plan?**

If your child has an Education Health and Care Plan (EHCP), please contact the Special Educational Needs Department (0118 974 6216) as a matter of urgency as your appeal must be made to the Special Educational Needs and Disability Tribunal (SENDIST).

## About the Appeal Panel

### 6. Who are the Appeal Panel members?

The Appeal Panel will be composed by a minimum of three members and:

- One member must have experience in education; be acquainted with educational conditions in the local authority's area; or be a parent of a registered pupil at a school
- One member must be a 'lay person', that is, someone without personal experience in the management of any school or the provision of education in any school (except as a school governor or in any other voluntary capacity)
- The other panel members will be from either of the above two categories

No member of the Appeal Panel will have any connection with either your preferred school or the school you have been allocated. The decision of the Appeal Panel is made **independently** of the Admission Authority and Wokingham Borough Council.

### 7. What powers does the Appeal Panel have?

The Appeal Panel can either refuse or allow your appeal. It has no other power.

The Appeal Panel **cannot**:

- attach any conditions if it allows your appeal
- hear complaints or objections on wider aspects of local admission policies and practice e.g. it cannot change the designated area of a school, or reassess the net capacity and admission number of the school
- order the Admission Authority to change your position on the waiting list for the school

However, an Appeal Panel can consider if the Admission Authority's admission arrangements have been properly implemented, and, if the Appeal Panel found that your child would have been offered a place if the admission arrangements had been properly implemented, the Panel will allow your appeal.

## About the Appeal Hearing

You will be notified in writing of the date, time and arrangements for your appeal hearing no later than 10 school days before the date of the hearing. You may be asked to waive your right to 10 *school* days notice if your hearing is to be held during the school holidays, when the notice will include 10 *working* days notice.

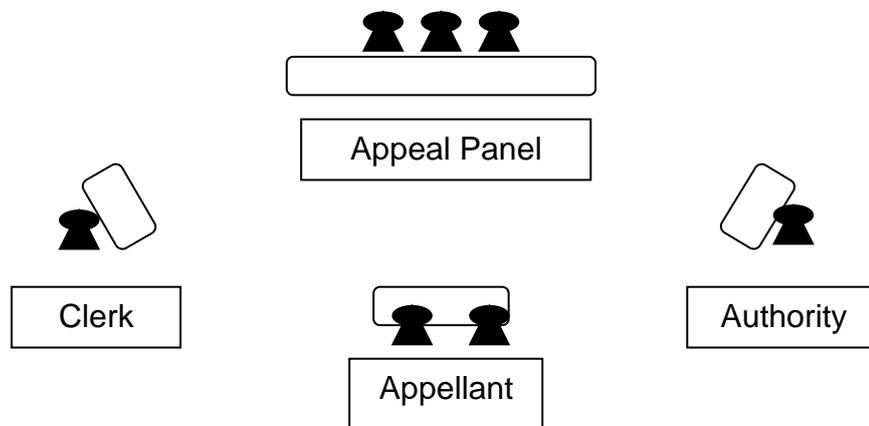
### 8. Who will be at the Appeal Hearing?

- You and/or your partner, and a friend, adviser or interpreter/signer
- The Appeal Panel (usually three members)
- The Clerk to the Appeal Panel
- An Officer from the Admission Authority and possibly one representative of the school such as the Headteacher, Deputy Headteacher, senior teacher, or a Governor of the school.

Sometimes there is also an observer. This may be:

- Someone who is training to be an Appeal Panel member, appeal Clerk or an Admission Authority presenting officer

The room may be set out as follows:



If you intend to call any witnesses or be represented at the hearing you will be asked to inform the Clerk prior to the hearing. Please note that if you wish to bring a friend or adviser to the hearing, they cannot be a member of the admission authority concerned.

### 9. Will the appeal be heard in private?

Yes. Your appeal will be heard in private at the Civic Offices, Shute End, Wokingham. Any observers will leave if you wish them to.

## Other people involved in the Appeal Hearing

### 10. What is the role of the Clerk to the Appeal Panel?

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

- ensure that the basic procedure is complied with and deal with any questions you may have
- ensure the relevant facts are established
- make sure each party is heard in turn
- be an independent source of advice on the law and procedures
- record the proceedings, decisions and reasons
- after the appeal, notify all concerned of the Appeal Panel's decision

### 11. What is the role of the Admission Authority officer at the appeal hearing?

The Admission Authority Officer is **not** involved with the decision making process of the appeal hearing in any way.

The Admission Authority Officer is responsible for presenting the case stating why a place cannot be offered to your child at your preferred school. S/he will present the case about the school on behalf of the Admission Authority and answer any questions raised by you, any other parents and the Appeal Panel members. The Admission Authority Officer will also advise the school of the results of the hearing.

Also, in the same way you can ask the Officer questions about the Admission Authority's case, and to ensure a fair hearing, the Officer may ask you questions about your reasons for appealing.

## Preparing for the Appeal

### 12. Will I have any information about the Admission Authority's case before the appeal hearing?

Normally, at least seven working days before the appeal hearing you will be sent a full set of papers which will include:

- The case for the Admission Authority stating why your child could not be allocated a place at your preferred school and which should also normally show how the admission arrangements for the preferred school apply to your application
- Relevant correspondence between yourself and the Admission Authority
- A copy of your appeal form and supporting information that you have submitted.

These documents will also be sent to the Appeal Panel at the same time.

### 13. What should I do if I think the Admission Authority has made a mistake in applying the admission criteria or the admission arrangements?

**You** are responsible for ensuring that you challenge what the Admission Authority has or has not done. The Admission Authority is required to allocate places in schools according to its admissions policy.

If you think that the Admission Authority has not applied the over-subscription criteria appropriately or placed you in the wrong category you should query this before the appeal hearing with the Admission Authority, and also put it in writing as grounds for your appeal. It would however be helpful if you could raise it with the Admission Authority before the appeal hearing so that Officers can check the facts. If it is only raised at the appeal hearing, it may be necessary to adjourn the appeal until the issues have been resolved.

### 14. How can I prepare for the appeal hearing?

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

So, **before the appeal hearing**, you are advised to:

- Familiarise yourself with the procedures (see paragraph 27).
- Make a note of any questions you may have about your appeal
- Make sure you have looked at the Admission Authority's case before the appeal hearing
- Make a note of any questions you would like to ask the Admission Authority Officer about the Admission Authority's case
- Be clear about the grounds/reasons for your appeal. Spend some time deciding what you would like to say when the Panel invites you to explain your reasons for wanting your child to attend your preferred school – it might be helpful to make a note of the main points

- Make sure you have all the paperwork to support your appeal such as a doctor's letter, confirmation of completion of your house purchase, rental agreement, or any other documentation
- On the day of the appeal hearing, **bring with you to the appeal**: the Authority's case and papers which were sent to you before the appeal; copies of the documents you sent in support of your case; any notes of questions you may have; and this guidance.

### **15. Is there anyone who can help me with preparing for my appeal?**

In the first instance, please contact the Clerk to the Appeal Panel who can help you with any queries or concerns you may have. S/he may be contacted on **0118 974 6053**; email: [school.appeals@wokingham.gov.uk](mailto:school.appeals@wokingham.gov.uk)

If you would like further advice or information, the Advisory Centre for Education (ACE) is an independent national education advice centre which provides information on the education system.

ACE operates a national advice line and produces a wide range of publications. Especially helpful is a booklet called "Appealing for a school", which provides advice on the appeals system. It also gives advice on what to do if your appeal is unsuccessful.

ACE may be contacted via their website: [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

### **16. What can I say at the appeal hearing?**

It is very important that you tell the Appeal Panel everything that is relevant to your case, i.e. the reasons why you feel your child should be admitted to the school in spite of the reasons given by the Admissions Authority. The appeal is confidential so please feel free to say whatever you need to.

Do not think "Oh, that's not really important" – make the most of your opportunity to talk to the Panel. The Clerk and members of the Appeal Panel want to be certain that you do not leave your appeal thinking that things have been left unsaid.

The members of the Appeal Panel have to make their decision on what information they have been given, so make sure you tell them what is relevant and important about your case. The Panel Members will, however, have read all the paperwork which you have sent in, so it is preferable to expand on that (if you need to) rather than reading to them the information which they already have in front of them.

### **17. Does the Appeal Panel need any supporting evidence about my reasons for appealing?**

Yes.

- If your case is based on medical or social grounds of either your child or anyone else in the family, you should, wherever possible, provide written evidence from a doctor or other professional, such as a social worker, to support this.
- If your case is based on a house move you should provide evidence of confirmation of the completion of your house purchase, a tenancy agreement or any other relevant documentation.

- If part of your case for seeking a new school for your child is dissatisfaction with the current school, such as you believe your son/daughter is being bullied, you should provide evidence such as letters of complaint / notes of any meetings with the school and other correspondence.
- You are also invited to put forward any letters, written reports or documents or any other evidence that you think will support your case.

All supporting evidence should be sent to the Clerk at least three working days before the appeal hearing or three working days before the first day of hearings for bulk appeals.

**18. Can I ask the Appeal Panel to contact anyone, such as my doctor or social worker, to confirm what I have said on my appeal form or at the appeal hearing?**

No. **You** are responsible for making sure that the Appeal Panel has any written supporting evidence before the appeal hearing.

**19. When can I provide my supporting evidence?**

The supporting evidence you submit with your appeal form will be included in the papers sent out to you and the Panel Members nine school days before the appeal hearing.

If you wish to submit additional information in support of your case this should be received by the Clerk no later than **three** working days before the hearing, or three working days before the first day of hearings for bulk appeals, so that the information can be circulated to Panel Members and the Admission Authority.

If you submit additional information later than this, particularly if you bring it on the day of the hearing, the Panel will have to decide whether the information is to be considered. The Panel may decide **not** to consider it, taking into account its significance and the effect of a possible need to adjourn the hearing.

## Attending the Appeal Hearing

### **20. Should I attend the appeal hearing?**

**Yes**, if at all possible! You are the best person to tell the Appeal Panel why you want your child to go to the school as you know your situation and will be able to provide information to help the Panel make an informed decision.

If you are unable to attend the hearing you have the following options:

- The appeal can go ahead in your absence based on the written information you have provided
- You can send someone to represent you (a friend or relative)
- You can defer your appeal to the next available date (twice only), unless there are exceptional circumstances

### **21. What happens if I need an interpreter/signer or other help?**

You may have an interpreter or signer at your appeal hearing. If you would like the Clerk to arrange this for you, please ask the Clerk well before the appeal hearing or indicate it on the appeal form. Alternatively, if you would prefer, you may arrange for your own interpreter/signer to come with you.

### **22. Can I bring someone with me to help me present my case?**

You may bring a member of your family, a friend, or an adviser along with you, either to help you say what you want or to speak for you or to simply give you support. Your friend/adviser should not be a member of the admission authority concerned.

It should not normally be necessary for you to have legal representation as the hearing is not a court of law and we aim to keep it as informal as we can. Any legal costs incurred by you are not recoverable in any event.

The Code of Practice states that you are entitled to decide how to organise your presentation to the Appeal Panel but it is unlikely to be necessary for witnesses to attend.

If you do intend to bring someone with you should let the Clerk know before the hearing.

### **23. Can I bring my son/daughter to the appeal hearing?**

Children should not normally attend appeal hearings (unless the child is over 16 and has submitted the appeal), attendance can be distressing for some children and unless there are exceptional reasons children should not be invited to attend. The appeal is a parental right to challenge the Admission Authority's decision to refuse a place at a preferred school.

### **24. What happens if I cannot attend the hearing?**

If at all possible, you should attend, but if you cannot do so for a genuine reason, we will try to arrange another date wherever possible. However, this may involve a significant delay.

However, it is important that you **contact the Clerk to the Appeal Panel as soon as possible** to let the Clerk know if you cannot attend on the date or time fixed for your appeal.

If you, or someone who can put your case, cannot attend and it is impractical to offer another date, your case will be heard in your absence and your appeal will be decided on the written information you have submitted.

**Please note:** if you are not at the appeal hearing and the Clerk has not been notified whether or not you will be attending, your case will be decided on the information that is available at the hearing.

**25. Can I withdraw my appeal?**

Yes. You can withdraw your appeal at any time before the appeal hearing by telephoning and then confirming in writing to the Clerk to the Appeal Panel. You may also withdraw your appeal at the hearing itself.

Please do give the matter careful consideration before you decide to withdraw your appeal because if you later decide that you want it to be reinstated you might have to wait for some weeks before it can be rearranged.

## The Appeal Hearing

### **26. How long does an appeal hearing take?**

It is difficult to say exactly.

A programme of appeals is set for the day and approximately 40 minutes is allowed for each appeal. However, the appeal will not be cut short and you will be given the opportunity to present your case.

You are advised to arrive at least 10 minutes before the time shown on your letter in case you wish to speak to the Clerk about any last minute queries before your appeal starts.

However, depending on how long it takes to hear any appeals listed earlier in the day, you are advised that there may be a delay and the waiting time may be 15 minutes or even longer.

### **27. What will happen at the appeal hearing?**

The procedure for hearing an appeal will depend on whether or not it is an “infant class size” appeal.

Please see paragraphs 31 to 38 for full details about appeals for an infant class (normally Reception, Year 1 and Year 2 but please note that it could also include Year 3). For all other appeals please see paragraph 29 to 30.

We try to make appeal hearings as informal as possible and ensure that both you and the Admission Authority Officer have the same opportunity to speak.

### **28. Does the Appeal Panel ever adjourn the appeal hearing?**

Yes. The Appeal Panel may adjourn the appeal hearing to later in the same day or another day in the following exceptional circumstances:

- If substantial new issues are raised for the first time at the hearing it may be necessary to adjourn to allow any party taken by surprise to consider the issues; or
- If a parent brings additional information the day of the hearing the Panel will have to decide whether the information can be considered. If the information is to be considered there may need to be an additional adjournment to ensure that all parties to the appeal have the opportunity to give full consideration to the new information.
- If the Appeal Panel requires further information to be obtained by the Admission Authority or parent;
- If, due to the time it takes to deal with any stage of any appeal that was not anticipated, the Appeal Panel may have to adjourn that appeal or any other appeal to a later time or another day; or
- If a Panel Member is ill or absent; or
- For any other appropriate reason.

## Other Primary School and Secondary School Appeals

### 29. The Process for all other Appeals

Appeals which are not based on Infant Class Size follow a two-stage process.

The first stage of the appeal is for examining the decision to refuse admission. The Panel considers whether the school's published admission arrangements complied with the mandatory requirements of the School Admissions Code, and whether they were correctly applied in your case. It then goes on to consider whether "prejudice to the provision of effective education or the efficient use of resources" (known as 'prejudice') would arise if your child were to be admitted to the school.

If it is clear that your child would have been offered a place at the school if the admission arrangements had been correctly implemented, and that the school could accommodate one more pupil without prejudice, then the Panel will uphold your appeal at this stage.

In all other cases the appeal moves on to the second stage, known as the balancing stage (Stage 2). You will be asked to present your case for wanting your child to be admitted to the school and the Panel will then have to balance your reasons against the prejudice that would be caused to the school if your child were to be admitted. The Panel will have to consider the consequences to the school, the Admission Authority, and other children in the school if they were to allow your appeal, and how serious those consequences would be.

The format for these appeals is as follows:

#### **First Stage (Examining the decision to refuse admission)**

- Welcome
- Chairperson introduces the Appeal Panel
- Chairperson outlines the procedure to be followed
- The Admission Authority Officer presents the case for the school - here the Officer will go over the reasons for not admitting your child to your preferred school
- Questions – you and the Appeals Panel will have the opportunity to ask any questions about the Admission Authority's case

#### **Second Stage (Balancing stage)**

- You present your case
- Questions – members of the Appeals Panel and the Admission Authority Officer have the opportunity to ask you questions about your case or to ask you to clarify issues
- Admission Authority Officer sums up
- You sum up
- Chairperson asks you if you have said everything you wish to
- You and the Admission Authority Officer leave the room and the Panel makes its decision.

**30. Why does the Chairperson or Clerk ask if we have had the opportunity to put our case?**

The members of the Appeal Panel and the Clerk want to be sure that both you and the Admission Authority Officer feel that you have had the opportunity to present your case in the way you wanted. They also want to be sure that you both feel you have been treated fairly and that the Appeal Panel has listened to you.

If you do not think that this is the case, please tell the Chairperson straight away so that it can be put right immediately, i.e. during the appeal. It is very important that you leave the room satisfied you have said everything and feeling that you have been treated fairly.

## Infant Class Size Appeals

### **31. What is an infant class?**

An infant class is one in which the majority of pupils will reach the age of 5, 6 or 7 during the school year.

### **32. Which Year Groups are infant classes?**

Normally infant classes are the Reception Year and Years 1 and 2 but sometimes, when a school mixes its year groups, it might affect a class that has some Year 3 pupils in it.

For example, a class could have 18 Year 2 pupils mixed with 12 Year 3 pupils. This would be counted as an infant class because the majority of pupils in that class will reach the age of 7 during the school year.

### **33. What is the limit to the number of pupils in an infant class?**

The School Standards and Framework Act 1998 states that, subject to certain limited exceptions, no infant class with a single qualified teacher may contain more than 30 pupils. These exceptions can be viewed in the School Admissions Code paragraph 2.15.

### **34. What is meant by “relevant measures”?**

Relevant measures are considered to be measures which would be required to be taken to ensure compliance with the statutory limit on infant class sizes and which would prejudice the provision of efficient education or the efficient use of resources. This may include the need to employ an additional qualified teacher, or the need to build an extra classroom, or the need to mix year groups.

### **35. When does the infant class size limit of 30 apply?**

The limit applies all the time. However, if the infant class limit has not been reached in the current year (for example in Reception year), but the addition of an extra pupil would take the number in the class over the limit when that class moved into Year 1 then the limit must apply now, despite the fact that for the remainder of the year it would be below the limit.

### **36. Are all appeals for infant classes going to be “class size”?**

Not necessarily. It depends on a variety of factors such as:

- the school’s admission number;
- whether or not the pupils are taught as single year groups or mixed with other year groups; and
- how many other parents are appealing.

Here are two examples:

Example 1: If the Admission Number is 60 and the school organises the year into two classes of 30 Reception Year pupils then it will immediately be a “class size” appeal.

Example 2: If the Admission Number is 33 and the school mixes the seven year groups into nine classes there will be 25 or 26 in each class and it will not be a “class size” appeal.

**Please note:** This does **not** mean that an Appeal Panel would definitely allow appeals just because the number has not reached the infant class size limit of 30. For example, in some small village schools a classroom might only be able to accommodate 20 pupils comfortably, but the Admission Authority may have admitted over that number to ensure that all pupils who lived in the designated area or had siblings at the school were allocated a place. It would therefore be very difficult to accommodate any more pupils in the classroom due to the size of the rooms. In these cases the format for the appeal follows the same procedure as for normal appeals.

### **37 How will I know if my infant class appeal is “class size”?**

You will receive an acknowledgment of the receipt of your appeal form and this will state clearly if your appeal is a “class size appeal”. Also, when the Admission Authority’s case papers are sent, normally at least seven working days before the appeal hearing (as explained in paragraph 12), they should state clearly whether it is or is not a “class size” appeal.

### **IMPORTANT**

- if the Admission Authority’s case papers are not clear; or
- if it has been indicated that there are others appealing for a place at the school you are advised to prepare your case for both an appeal where the Appeal Panel can take into consideration your personal circumstances **and also** prepare your case on the basis that it is a “class size” appeal where the Panel can only consider **two** factors in your appeal. See paragraph 38 for full details.

The format for these appeal hearings is as follows:

- Welcome
- Chairperson introduces the Appeal Panel
- Chairperson outlines the procedure to be followed
- The Admission Authority Officer presents the case for the school - here the Officer will go over the reasons for not admitting your child to your preferred school
- Questions – you and the Appeal Panel will have the opportunity to ask any questions about the Admission Authority’s case
- You present your case
- Questions – members of the Panel and the Admission Authority Officer have the opportunity to ask you questions about your case or to ask you to clarify issues
- Admission Authority Officer sums up
- You sum up
- Chairperson asks you if you have said everything you wish to
- You and the Admission Authority Officer leave the room and the Panel makes its decision.

### **38. The Appeals Panel’s decision in Infant Class Size Appeals**

In a class size appeal the Appeal Panel is only able to look at three factors and can **only** allow a class size appeal if one of the three grounds stated below applies. Either:

- a) It finds that the admission of additional children would not breach the infant class size limit;
- b) 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;

- c) 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.

When considering whether the decision to refuse admission was one that a reasonable admission authority would have made in the circumstances of the case, the Panel will look at all the facts to determine whether the Admission Authority acted reasonably.

However, the threshold is high for finding that 'the Admission Authority's decision to refuse admission was not one that a reasonable authority would have made'. Case law has defined that the Panel will need to be satisfied that the decision to refuse admission was 'perverse, in light of the admission arrangements', ie it was 'beyond the range of responses open to a reasonable decision maker' or was 'a decision which is so outrageous in its defiance of logic or of acceptable moral standards that no sensible person who had applied his mind to the question could have arrived at it'.

## Multiple Appeals

### 39. What are multiple appeals?

There are times when appeal panels will have to hear appeals from a number of parents who all wish their child to attend the same school and same year group. This generally happens before the September intake into Reception and Year 7 classes, but can occur at any time during the year. It is important that all these appeals should all be decided by the same panel at the same time, and the decisions should not be made on any individual case until all parents have been involved in both stages of the process, or an injustice could result.

In coming to their decisions the Panel should first assess whether admitting **all** the pupils would cause prejudice to the school and whether the child would have been offered a place if the admission arrangements had been properly implemented. If the Panel decides that the admission of all the pupils appealing **would not** cause prejudice to the school then **all** appeals will be allowed.

If the Panel decides that to admit further children **would** cause prejudice to the school they have to decide for each individual case whether the grounds for your appeal outweigh that prejudice. There is no comparison between the individual cases at this stage.

If, however, there are several cases where the grounds for appeal outweigh the prejudice to the school but the Panel decide that the school could not cope with that number of successful appeals they will compare the cases and decide which they will allow.

Each appeal will follow the appropriate format, as set out in paragraph 29 or 37, and no decision will be made on individual cases until all cases for the school and particular year group have been heard.

## Appeal Panel Decisions

### 40. When does the Appeal Panel make its decision?

Decisions should not normally be made on individual cases until all parents have been involved in all stages of the process or an injustice could result.

However, in very exceptional circumstances, if a parent asks to be heard later than the time arranged and if the gap is significant, it might not be reasonable to hold up decisions for the majority.

### 41. How does the Appeal Panel make its decision?

The Appeal Panel must take into account your preference of school, the reasons for your preference, and the admission arrangements and rules published by the Admission Authority.

In Infant Class size appeals, the Appeal Panel considers an appeal in the two stages:

1. Has the Admission Authority proved “prejudice to the provision of efficient education or the efficient use of resources”, and have the admission arrangements been properly implemented and comply with the mandatory requirements of the School Admissions Code?

If the Appeal Panel finds that the Admission Authority has not proved its case, or that the admission arrangements have been wrongly and/or unlawfully applied, and that your child would have been offered a place at your preferred school if they had been correctly applied, then it must allow your appeal. However, if the Panel finds that the Admission Authority has proved its case the appeal process moves on to Stage 2.

2. Do your reasons for wishing your child to attend the school outweigh the “prejudice to the provision of efficient education or the efficient use of resources”?

The Appeal Panel will balance your reasons against the effect the admission of an extra pupil will have on the school.

If the Appeal Panel decides that your case for your son/daughter is stronger than the case for the school, it will allow your appeal.

If it decides that your case is **not** stronger than the case for the school, it will refuse your appeal.

In the case of Infant Class Size appeals, the Appeal Panel is only able to look at three factors and can **only** allow an infant class size appeal if one of the three grounds stated below applies. Either:

- a) It finds that the admission of additional children would not breach the infant class size limit;
- b) 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;
- c) It decides that the decision to refuse admission was not one reasonable admission authority would have made in the circumstances of the case.

When considering whether the decision to refuse admission was one that a reasonable admission authority would have made in the circumstances of the case, the Panel will look at all the facts to determine whether the Admission Authority acted reasonably.

However, the threshold is high for finding that 'the Admission Authority's decision to refuse admission was not one that a reasonable authority would have made'. Case law has defined that the Panel will need to be satisfied that the decision to refuse admission was 'perverse, in light of the admission arrangements', ie it was 'beyond the range of responses open to a reasonable decision maker' or was 'a decision which is so outrageous in its defiance of logic or of acceptable moral standards that no sensible person who had applied his mind to the question could have arrived at it'.

If your appeal is allowed, the decision is binding on the Admission Authority and the governing body and your son/daughter must be admitted to the school.

#### **42. How will I find out the outcome of my appeal?**

You will be informed of the Appeal Panel's decision by a letter from the Clerk to the Appeal Panel, setting out the reasons for the decision. This will normally be sent to you within five working days but when there are several days of appeals for one school the decision letters will only be sent out after all the appeals have been heard.

## Appeals Relating to Disability

### **43. What if my appeal relates to my child's disability?**

If your case is that the Admission Authority has refused admission for a reason related to your child's disability the Appeal Panel will also consider your case as follows:

Legislation in the Equalities Act 2010 requires Admission Authorities not to discriminate against disabled pupils in relation to admissions;

- in the arrangements it makes for deciding who is offered admission as a pupil
- as to the terms on which it offers to admit the person as a pupil
- by not admitting the person as a pupil

In considering whether the child was refused admission because of their disability, the Appeal Panel must take into account the Equality and Human Rights Commission's guidance in their Code of Practice for Schools.

## After the Appeal

### 44. If my appeal is refused can I appeal again?

No. There is no appeal against the decision of the Appeal Panel.

In the event of an unsuccessful appeal against non-admission to a school, the Local Authority will not consider any further application for admission, nor is there any automatic right to a further appeal for admission, within the same academic year unless there is an **exceptional** situation resulting in a significant change of circumstances relevant to the application.

Also, you may re-apply in the **following** academic year and you have the right to a fresh appeal if it is still necessary because you have been refused a place.

### 45. What can I do if I am unhappy about the appeal process?

If you think that the proper procedures have not been followed you can ask the Local Government and Social Care Ombudsman (LGO) to investigate. This is **not a right of appeal** as the LGO can only investigate written complaints about maladministration on the part of the Appeal Panel.

Complaints about maladministration on the part of an appeal panel for an Academy, or that an Academy Trust has failed to comply with the Appeals Code in setting up a Panel, are investigated by the agency appointed to investigate complaints about Academies on behalf of the Secretary of State. At the date of publication this is the Education Funding Agency.

Maladministration means that there has been a fault in the way something has been done or not done. It has to relate to issues, such as, you believe the Panel has not been properly set up or has not followed procedures correctly. On the other hand, the LGO would not criticise the decision of a Panel, which fairly took into account all the evidence presented by both the parents and the Admission Authority, just because the parents disagreed with the decision reached.

If, following investigations, the LGO finds there has been maladministration that might have caused you an injustice, one of the remedies he sometimes suggests is that there should be a fresh appeal hearing with different Appeal Panel members.

### 46. Can I complain to the Secretary of State for Children, Schools and Families (DCSF)?

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 functions in respect of the appeal process.
- If, for example, the Appeal Panel was not properly constituted, the Secretary of State could exercise his/her powers by directing that a properly constituted Panel should be set up.

**47. What if I think that the decision of the Appeal Panel was wrong in law?**

If you, or the Admission Authority or the School Governing Body consider that the decision of the Appeal Panel is legally invalid, any one of you 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 Panel's decision to be unlawful or unreasonable (irrational or perverse in the legal sense), it could overturn the decision, or it could order that a fresh appeal hearing be set up with new Appeal Panel members.

If any party to the appeal wishes to consider this course of action they should take independent legal advice **as soon as possible** as normally there is a time limit.

**48. What should I do if my appeal has been refused and I do not want to send my son/daughter to the school that has been allocated?**

You can apply for another school, or more, and if these cannot admit any more pupils you have the right of appeal for a place at these other schools.

You should contact the Admission Authority as soon as possible as you have a legal duty to have your child educated.

**49. If I appeal does my child move up the waiting list?**

**No.** Your child's position on the waiting list is not affected by appealing.

**50. What happens if a place becomes available at my preferred school after the appeal decision?**

If you have informed the Admission Authority that you wish to remain on the waiting list, if a place becomes available **and** your child is top of the waiting list s/he will be offered a place at the school.

However, please do remember that waiting lists are constantly changing, and that your child's place may move up or down. If, for example, a child moves into the designated area and lives right next door to the school, he/she will be placed higher up the waiting list, and everyone else will move one place down.

## **APPENDIX 1: Useful addresses**

**Enquiries about this Guidance and the appeals process in Wokingham should be addressed to:**

Clerk to the Appeal Panel  
Democratic Services  
Wokingham Borough Council  
Shute End  
Wokingham RG40 1WQ

Tel: 0118 974 6053  
Email: [school.appeals@wokingham.gov.uk](mailto:school.appeals@wokingham.gov.uk)

**Enquiries about other aspects of admissions and alternative school preferences should be addressed to:**

School Admissions Team  
Children's Services  
Wokingham Borough Council  
Shute End  
Wokingham RG40 1WQ

Tel: 0118 9746146/6111/6245  
Email: [school.admissions@wokingham.gov.uk](mailto:school.admissions@wokingham.gov.uk)

### **OTHER USEFUL ADDRESSES:**

#### **Advisory Centre for Education**

ACE  
36 Nicholay Road  
London  
N19 3EZ

Tel: 0208 4075142  
Website: [www.ace-ed.org.uk](http://www.ace-ed.org.uk)  
Email: [enquires@ace-ed.org.uk](mailto:enquires@ace-ed.org.uk)

#### **Coram Children's Legal Centre**

Coram Children's Legal Centre provides free, independent advice on all areas of child, family and education law through their Child Law Advice Service.

Tel: 0300 330 5480 for family law and 0300 330 5485 for education law  
Website: [www.childlawadvice.org.uk](http://www.childlawadvice.org.uk)

**Equality and Human Rights Commission**

Equality and Human Rights Commission Helpline  
Freepost  
Equality Advisory Support Service  
FPN4431

Telephone: 0808 800 0082  
Textphone: 0808 800 0084  
Email: [info@equalityhumanrights.com](mailto:info@equalityhumanrights.com)  
website: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

**Department for Education**

Castle View House  
East Lane  
Runcorn  
Cheshire WA7 2GJ

Tel: 0370 000 2288  
Website: [www.education.gov.uk](http://www.education.gov.uk)

**The Local Government and Social Care Ombudsman**

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

Tel: 0845 602 1983 or 0300 061 0614  
Email: [advice@lgo.org.uk](mailto:advice@lgo.org.uk)  
Website [www.lgo.org.uk](http://www.lgo.org.uk)

**Education Funding Agency**

Academies Central Unit  
(Academies Complaints)  
Earlsdon Park  
53-55 Butt Road  
Coventry CV1 3BH

[www.education.gov.uk/aboutdfe/complaintsprocedure](http://www.education.gov.uk/aboutdfe/complaintsprocedure)  
Email: [efa.education.gov.uk](mailto:efa.education.gov.uk)

## Appendix 2 - Tips on preparing for your School Admission Appeal

These are some useful tips to help you in preparing for your school appeal. Please note – they are only a guide to preparing for and presenting your case and should in absolutely no way whatsoever be regarded as a failsafe route to success in an appeal!

### We suggest that you:

- Provide evidence relevant to your case - if you have any - regarding issues such as bullying (a letter from a Doctor, for instance). Unfortunately the Panel needs evidence as proof of what you say, even though they believe what you are telling them. Without such proof they can attach little weight to what you have said. Please also remember that the desire to get out of a particular school, for whatever reason, is not enough to allow an appeal for another school. You still have to prove that the school you are appealing for is best equipped to take your child.
- Provide the Clerk with all the evidence you wish to submit no later than 3 working days before the hearing.
- Ensure that the case you are presenting will prove to the Panel that the school you are appealing for is the **only** one which can fulfil your child's particular needs, and that those needs outweigh the prejudice which would be caused to other children already in the school by squeezing one more child in. You should include reasons why the school which has been offered is unsuitable or less suitable.
- Bring a friend with you if you feel that you need support or help in putting your case.
- Speak to the Clerk if you have any queries or concerns.
- Keep your presentation to the point, and speak from the heart.
- Keep your case relevant to your child's welfare, not yours. Your own convenience is not a strong argument in a school appeal.
- Try to paint a picture of your child for the panel – their personality, strengths, quirks, health problems, family problems etc. The panel members are human, and like to find out about the person they are hearing about. They are then better able to make a balanced judgement.
- Bear in mind that all cases are different, sometimes in only a small detail, and that although you might hear that a case similar to yours was successful there will almost certainly have been a difference.
- Remember that Planned Admission Numbers (PANs) have been set for a reason. They are the optimum number of children which a school is able to manage to provide the best possible education for its pupils. PANs set a range within which schools must work, and almost every school works to its maximum number.

- Many schools will have, for a number of reasons, accepted children over their PANs in the past, but this is not a reason for them to do so in the future. In nearly every case the addition of extra pupils will have a detrimental effect on the provision of education – your job is to prove to the panel that your need outweighs that effect.
- Please remember - the Panel has very little leeway in Infant Class Size appeals – they can only allow an appeal if they agree that the decision made by the Admissions Authority was not reasonable given the circumstances of the case, or if they agree that your child would have been offered a place if the published admission arrangements had been properly implemented – i.e. if the admission authority had made a mistake.
- Be assured that every Panel member always reads everything which has been submitted. Rather than read out word for word the paperwork you have already supplied it is far better to use the time to build on that information. However if you think that you will not be able to remember everything you want to say at the appeal do please make notes for yourself and read them if you want to so that you do not forget anything.

**We suggest that you do not -**

- Spend a disproportionate amount of time explaining why you don't want your child to go to his/her allocated school, or running it down. This does not mean that you cannot explain the reasons why your allocated school may not be appropriate.
- Bring large amounts of paperwork to the appeal for the Panel to read on the spot, as they may not take the information into consideration
- Feel that you are on trial! Independent Panels want to do the best for pupils and will listen to what you say.