

SCHOOL ADMISSION APPEALS SERVICE

A Guide for Schools on Reading Borough Council's School Admission Appeals Service

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WHAT DOES THE SCHOOL ADMISSION APPEALS SERVICE OFFER?

The Appeal Service will manage all aspects of the admission appeals process in accordance with the School Admission Appeals Code.

This includes:

- Dealing with initial enquiries by parents about submitting an appeal and explaining the process
- Providing online (www.reading.gov.uk/schoolappeals) and paper appeal forms for parents
- Logging appeal forms and sending an acknowledgement to parents
- Setting up appeal hearings within the required legal framework and timetable, distributing all paperwork in advance of the appeal hearing (Schools will be required to submit their case in writing to the Clerk in advance of an appeal hearing)
- Providing trained voluntary panel members and where applicable paying their expenses
- Providing a suitable venue for the hearing
- Providing a trained clerk for the hearing who will take the required notes and produce the decision letter and offer general legal advice to the Appeal Panel. The clerk will access any additional legal support as necessary (extra charges are made for additional legal advice sought before, during and after the hearing, but in practice this doesn't often occur)
- Coordinate any subsequent Ombudsman/EFA complaint response
- All paperwork will be retained for the necessary timescales

WHY DOES A SCHOOL HAVE TO OFFER ADMISSION APPEALS?

The law places a duty on admission authorities to provide a right of appeal for anyone refused a place at a school.

Paragraph 1.1 of the School Admission Appeals Code 2012 -

‘Under Section 94 of the School Standards and Framework Act 1998, responsibility for making arrangements for appeals against the refusal of a school place rests with the admission authority of the school. The admission authority and appeal panel must act in accordance with this Code, the School Admissions (Appeal Arrangements) (England) Regulations 2012, the School Admissions Code, other law relating to admissions, and relevant human rights and equalities legislation, for example, the Equality Act 2010.’

Paragraphs 2.24 of the School Admissions Code 2014 and 2.5 of the School Admission Appeals Code 2012 -

‘When an admission authority informs a parent of a decision to refuse their child a place at a school for which they have applied, it **must** include the reason why admission was refused; information about the right of appeal; the deadline for lodging an appeal and the contact details for making an appeal. Parents **must** be informed that, if they wish to appeal, they **must** set out their grounds for appeal in writing. Admission authorities **must not** limit the grounds on which appeals can be made.’



WHAT HAPPENS WHEN A PARENT SUBMITS AN APPEAL FORM?
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Parents can lodge an appeal using the Council's online form www.reading.gov.uk/schoolappeals or they can request a paper form by contacting the Clerk.

Once the Clerk has received a form they will log the form with an appeal number and forward a copy to the school, usually by secure email. At this point the school should check that the appellant has made an application and been refused a place at the school. If the parent has not applied then there is no right of appeal and you should inform the Clerk of this before arrangements are made for the appeal to be heard.

The Clerk will send an acknowledgement to the parent providing them with information about the appeal process.

The Clerk will start to make arrangements for the appeal to be heard. Once a date has been arranged the Clerk will inform the school of the time and date of the appeal hearing.

The parents must be given 10 school days' notice of the date, time and location of the appeal hearing. The parent must also receive the school's statement within a reasonable time before the hearing.

WHAT INFORMATION DOES A SCHOOL NEED TO PROVIDE FOR AN APPEAL HEARING?

A School will need to submit its case in advance of the hearing. When the Clerk informs you of the appeal date they will also provide you with a deadline by which to submit your statement.

Paragraph 2.9 of the School Admission Appeals Code 2012 -

'The admission authority **must** supply the clerk to the appeal panel with all relevant documents needed to conduct the hearing in a fair and transparent manner and in accordance with the specified timetable. The must include details of how the admission arrangements and the co-ordinated admissions scheme apply to the appellant's application, the reasons for the decision to refuse admission and an explanation as to how admission of an additional child would cause prejudice to the provision of efficient education or efficient use of resources.'

In the statement you will need to demonstrate that your admission arrangements comply with the mandatory requirements and that they have been correctly and impartially applied in the case in question. For normal admission round appeals this may mean providing information on how places have been allocated according to your oversubscription criteria.

You will also need to demonstrate that the admission of additional children would prejudice the provision of efficient education or the efficient use of resources. An Appeal Panel must allow an appeal if it finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources, without considering the parents case.

Paragraph 3.10 of the School Admission Appeals Code 2012 -

'Whist the panel must take into account the school's published admission number, the admission authority must be able to demonstrate prejudice over and above the fact that the published admission number has already been reached.'



The school's statement along with the appeal form and any further information the parent has submitted will be printed into a bundle. This will be sent to the Appeal Panel, the parent and the school.

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The Clerks are not able to provide or source any information for you. If you need information about the co-ordinated scheme you will need to contact the School Admissions Team directly. The Clerks are independent of the education functions of the local authority.

WHO SHOULD ATTEND AN APPEAL?

Anyone from the school can attend to present the school's case at the hearing. The person must be able to present the school's case based on what has been submitted in the school's written statement and must be able to answer questions on such things as how the application in question was dealt with, the school's admission policy, the physical accommodation, organisation and sizes of classes at the school, and the availability of teaching staff.

Paragraph 2.11 of the School Admission Appeals Code 2012 -

'The admission authority must provide a presenting officer to present the decision not to admit the child and to answer detailed questions about the case being heard and about the school.'

WHO ELSE WILL BE AT AN APPEAL HEARING?

The Appeal Panel.

The parent is invited to attend, and they can be represented or accompanied by a friend.

The Clerk to the Appeal Panel will also be present at the hearing to act as an independent source of advice and to record what happens at the appeal hearing.

WHAT HAPPENS AT AN APPEAL HEARING?

We try to make the appeal hearing as informal as possible.

- The Chair of the Appeal Panel will welcome everybody to the appeal hearing and introductions will be made;
- The school's representative will explain the reasons the child has not been offered a place at the school. The parent and the members of the Appeal Panel will be able to ask questions on what has been said by the school's representative and what is in the school's written paperwork;
- The parent will then be given the opportunity to present their case. The members of the Appeal Panel and the school's representative will then be able to ask questions;
- There will then be a summing up stage, where the school's representative and then the parent will be given the opportunity to sum up the main points of what has been said at the appeal hearing. No new information should be presented at this stage;



○ The Chair of the Appeal Panel will then ask the parent and the school's representative to leave the room. The Clerk to the Appeal Panel will remain with the Appeal Panel to record its decision and the reasons for making that decision but the Clerk will not play any part in making the decision.



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WHERE ARE APPEAL HEARINGS HELD?

Appeals are usually held in one of the committee rooms at the Council offices.

The address is:
Civic Offices
Bridge Street
Reading
RG1 2LU

Please note there is no parking available at the civic offices. The nearest public car parks are the Oracle Shopping Centre or the Broad Street Mall.

WHAT IS THE CLERKS ROLE?

Paragraph 1.11 of the School Admission Appeals Code 2012 -

‘The clerk must provide an independent and impartial service.....The clerk’s role is to make the necessary administrative arrangements for hearings; to notify the parties of the order of proceedings in advance of the hearing; to respond to queries from appellants in advance of the hearing, or to identify the appropriate person to provide a response; to be an independent source of advice (or to seek appropriate advice) on procedure and on admissions law; to keep an accurate record of proceedings; and to provide the parties with written notification of the panel’s decision.’

WHO ARE THE APPEAL PANEL?

The Appeal Panel must be independent of the admission authority and is made up of three people who will determine the appeal. At least one panel member will be a lay person and at least one panel member will have experience in education. The Appeal Panel will not have any connection with the school and it cannot have been involved with the original decision to refuse a place. The Appeal Panel members are volunteers.

HOW DOES THE APPEAL PANEL MAKE ITS DECISION?

Appeal Panels must make a decision in accordance with the statutory School Admission Appeals Code issued by the Department for Education.

There are two stages to the decision making process.

Please note that there is a different decision making process for infant class size appeals and this is explained in a separate section.

APPEAL DECISION MAKING (except infant class size appeals)



First Stage - examining the decision to refuse admission

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The appeal panel must consider:



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- whether the school's published admission arrangements comply with the legal requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998;
- whether the school's published admission arrangements were correctly and impartially applied in the case(s) in question;
- whether the admission of an additional child would prejudice the provision of efficient education or the efficient use of resources (i.e. would have a detrimental impact on the education provided at the school and on the use of resources);

In deciding whether prejudice would be caused with the admission of an additional child, it is not enough for the admission authority to show that the school's published admission number has already been reached. The admission authority must be able to demonstrate over and above this fact what prejudice would be caused by admitting an additional child.

In reaching a decision as to whether or not there would be prejudice, the Appeal Panel may consider a number of factors, such as the impact on the school and size of classes, the amount of teaching space available, and the effect an additional child would have as the year group in question moves through the school.

If there is only one appeal, the Appeal Panel **must** allow the appeal at the first stage, if they find any of the following:

- the school's published admission arrangements do not comply with the legal requirements and the child would have been offered a place if the published admission arrangements had complied with the legal requirements;
- the school's published admission arrangements have not been correctly and impartially applied in the case, and if they had been, the child would have been offered a place;
- the admission of an additional child **would not** prejudice the provision of efficient education or the efficient use of resources.

If the Appeal Panel is hearing more than one appeal for the same school (multiple appeals), and finds that all the appeals could be allowed without causing prejudice, it must allow all of the appeals at the first stage. If not, the Appeal Panel **must** proceed to the second stage.

If the Appeal Panel is hearing multiple appeals and finds that there are a number of children who should have been offered a place, the Appeal Panel must consider whether admitting that number of children would cause serious prejudice. If the Appeal Panel finds that it would cause serious prejudice, it cannot allow any of these appeals at the first stage and **must** proceed to the second stage (see below).

Second Stage - balancing the arguments

The Appeal Panel **must** balance the prejudice to the school against the case for the child to be admitted to the school. The Appeal Panel must decide whether your reasons for wanting your child to be admitted to the school outweigh the prejudice that would be caused to the school by another child attending. If there is only one appeal and the Appeal Panel decides that the parent's case outweighs the prejudice to the school, the Appeal Panel **must** allow the appeal. If the Appeal Panel decides that the parent's case does not outweigh the prejudice to the school, the Appeal Panel **must** refuse the appeal.

If the Appeal Panel is hearing multiple appeals it must balance the arguments for each appeal.

In balancing the arguments, the Appeal Panel must take into account the parent's reasons for wanting their child to attend the school they are appealing for a place at, and what it can offer their child that other schools cannot.

INFANT CLASS SIZE APPEALS

The law states that there can be no more than 30 children with a single qualified teacher in an infant class (Reception, Year 1, or Year 2).

An admission authority can refuse to admit a child to an infant class at a school if admitting an additional child would mean exceeding the legal limit of 30 with a single qualified teacher and if the measures they would have to take to avoid this (such as employing an extra teacher for which there is no budget) would prejudice the provision of efficient education or efficient use of resources (i.e. would adversely affect the education and use of resources at the school).

Not all appeals for a place in an infant class are infant class size appeals, as some infant classes may have less than 30 in a class for example - but if the appeal is for a place in an infant class and the admission authority can satisfy the Appeal Panel that there are already 30 in the class with one qualified teacher and they cannot take measures to avoid this without prejudicing the provision of efficient education or the efficient use of resources, then the appeal will be considered to be an infant class size appeal.

The Appeal Panel have to follow a different decision making process for infant class size appeals. If the appeal is considered to be an infant class size appeal, then the Appeal Panel is **reviewing** the admission authority's decision to refuse your child a place at the school. There are only limited circumstances in which an infant class size appeal can be allowed, and as such, only a limited chance of an appeal being allowed.

First Stage - examining the decision to refuse admission

The Appeal Panel **can only** allow an infant class size appeal at the first stage, if they find any of the following:

- the school's published admission arrangements do not comply with the legal requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998 and your child would have been offered a place if the published admission arrangements had complied with the legal requirements;
- the school's published admission arrangements have not been correctly and impartially applied in the child's case, and if they had been, the child would have been offered a place;
- the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.

In considering whether the Admission Authority has made an unreasonable decision, the Appeal Panel must determine whether the decision was one no reasonable Admission Authority would have reached in the circumstances of the case, and the threshold for finding this is high. In this context, it is the legal meaning of "reasonableness" that applies, which means that an unreasonable decision is irrational or perverse to refuse to admit the particular child.

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Paragraph 4.10 of the School Admissions Appeals Code 2012



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‘The Panel will need to be satisfied that the decision to refuse to admit the 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”’.

In reaching a decision, the Appeal Panel must take into account all relevant circumstances, including: the published admission arrangements and the parent’s preference; the circumstances of the particular child and family; and the practical consequences for the school and children in relevant infant classes if the child were to be admitted.

If the Appeal Panel is hearing multiple appeals, and finds that there are a number of children who should have been offered a place, the Appeal Panel must consider whether admitting that number of children would cause serious prejudice.

HOW OFTEN CAN A PARENT APPEAL?

A parent can have an appeal for each academic year as long as they have applied and been refused a place. A parent may have a second appeal for the same academic year if the school has accepted and refused a second application.

Paragraph 5.1 of the School Admission Appeals Code 2012

‘Appellants do not have the right of a second appeal in respect of the same school for the same academic year unless, in exceptional circumstances, the admission authority has accepted a second application from the appellant because of a significant and material change in the circumstances of the parent, child or school but still refused admission.’

Paragraph 5.3 of the School Admission Appeals Code 2012

‘Appellants may apply for a place in the same school in respect of a later academic year and have a further right of appeal if that application is unsuccessful.’

HOW WILL THE SCHOOL FIND OUT THE DECISION?

The decision letter will be emailed to the school as soon as it is ready to be posted to the parent. This is normally within 5 school days of the appeal hearing. The decision letter is posted to the parent using first class post.

If an appeal is allowed, the parent is expected to contact the school in order to agree a start date.



There is no right of appeal against the Appeal Panel’s decision but if a parent considers that the appeals procedure has not been carried out properly, they can complain to the Local Government Ombudsman (LGO) or to the Education Funding Agency (ESFA) in the case of academies and Free Schools.

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Should a parent make a complaint following their appeal hearing the Clerk will coordinate any Ombudsman/ESFA complaint response.

USEFUL CONTACTS

Sarah Wilson - Clerk to the Appeal Panel
Amy Bryan - Clerk to the Appeal Panel

Committee Services
Reading Borough Council
Civic Offices
Bridge Street
Reading
RG1 2LU

Tel: 0118 937 2532

sarah.wilson@reading.gov.uk
amy.bryan@reading.gov.uk

<http://www.reading.gov.uk/schoolappeals>

Emily Nicholls - School Admissions Manager

School Admissions Team
Reading Borough Council
Civic Offices
Bridge Street
Reading
RG1 2LU

Tel: 0118 937 3666

admissions.team@reading.gov.uk

<http://www.reading.gov.uk/admissionsarrangements>



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