

# **SCHOOL ADMISSION APPEALS**

## **GUIDANCE FOR PARENTS AND CARERS – INFANT AGE CHILDREN**

These guidance notes explain how to appeal against a decision made to refuse your child a place at a school you had applied for.

This appeals process is run by the Education Appeals Team within Democratic Services who are a separate team to, and independent of, Admissions.

### **HOW TO APPEAL**

You have a right of appeal for a place at any school for which your child has been refused a place by the Admission Authority.

We provide admission appeals for all Nottinghamshire County Council community schools, plus some academies, voluntary aided, foundation and free schools. If we don't provide appeals for the school you wish to appeal for, please contact the school directly to find out how to submit an appeal. If you're unsure what type of school you want to appeal for, please call 0300 500 80 80 for advice.

You can either appeal online, or by post (printed appeal forms can be requested from 0300 500 80 80).

### **What to include with your appeal form**

Please complete your appeal form carefully making sure all contact information included is correct as we will use this information to tell you when your appeal hearing is and what the appeal panel's decision is. If you move home during the appeal process, remember to let us know, as well as Admissions as we are independent of them. You can let both teams know your new contact details by calling 0300 500 80 80.

You need to make sure that you include all of your reasons for wanting a place at the school and explain your reasons as fully as possible in the 'reasons for appeal' section of the form. The information you include here is very important as this information will be sent to the appeal panel, clerk and presenting officer from the Admission Authority in advance of the hearing and is part of your case to the appeal panel.

Please remember that you are appealing for a place at the school you have been refused, rather than appealing against the place you have been offered.

You should attach copies of any written supporting information which you would like the appeal panel to consider at your appeal hearing. If you haven't already given this information to Admissions, you should also send it to them to consider as part of your application, as we will not share the information with them until later in the process. You can also choose to send information to us at a later date, up to 10 days before your appeal hearing.

Please note there is a 10MB limit to any attachment sent on-line or by email. If you send more than this limit we will not get your information and will not know that you have tried to send it to us. If you need to send more than 10MB please either split it across more than one email or contact us to discuss an alternative way it can be submitted. Regardless of how you have sent the information to us we will acknowledge that we have received it so if you don't hear from us within three working days please call us on the number in your appointment letter or 0300 500 80 80 to make sure we have received what you have sent.

Please ensure your submission and any supporting evidence does not give any personal information about someone else who is not relevant to your appeal. For example, the details of a landlord on a tenancy agreement. If you have any doubt about the details of someone else being provided with your appeal, please contact us for advice. The Council is committed to protecting your privacy and ensuring all personal information is kept confidential and safe. For more details see our general and service specific privacy notices at: <https://www.nottinghamshire.gov.uk/global-content/privacy>

### **Waiving your right to 14 days' notice**

On your appeal form you'll be asked whether or not you're willing to waive your right to 14 days' notice. If you waive your right to 14 days' notice, we may be able to schedule your appeal earlier. We'll normally only opt to do this where we feel it to be in your best interests. This relates to how early we have to tell you when your appeal hearing is along with who will hear your case.

### **Deadlines for lodging your appeal**

#### **2021/22 Academic Year – In-Year Transfers**

For appeals within the 2021/22 academic year (for your child to move from one school to another between September 2021 and August 2022), please return your form within four weeks of the date of your refusal of the school place, wherever possible. Once we receive your appeal we will hear it as soon as practicably possible.

#### **2022/23 Admissions round**

For appeals for your child to start primary / infant school for the first time (Reception) or move up from an infant to a junior school (Year 3) you should return your appeal form by: -

	<b>Offer date</b>	<b>Appeals lodged by</b>	<b>Appeals to be heard by</b>
<b>Primary</b>	19 April 2022	18 May 2022	As soon as practicably possible before the start of the new school year

**Note:** - Appeals lodged after 18 May 2021 will still be heard as soon as practically possible.

#### **2022/23 Academic Year – In-Year Transfers**

For appeals within the 2022/23 academic year (for your child to move from one school to another between September 2022 and August 2023), please return your form within four weeks of the date of your refusal of the school place, wherever possible. Once we receive your appeal we will endeavour to arrange and hear it as soon as practicably possible.

### **Receiving your appeal**

If you're appealing online, you'll receive an email confirming we've received your appeal form. Please make sure that you fully submit your form and get to the [thank you page](#). If you don't receive an acknowledgement email, please contact 0300 500 80 80 to check that we have received your form.

If you are appealing via the post, we will send you an acknowledgement letter once we've received and logged your appeal. If you've not received an acknowledgement letter after 2 weeks, please contact 0300 500 80 80 to check we have received your appeal form. Please note this process is taking longer than usual due to additional processes being required during this period.

## **THE APPEALS PROCESS**

Having received, logged and acknowledged your appeal, we'll make arrangements for your appeal to be heard by a panel of three independent members. In arranging your appeal we will, wherever possible take account of your availability provided on the appeal form, however due to the volume of appeals we receive it may not always be possible to do this. After receiving our acknowledgement email / letter it may be a while before you hear from us again whilst we get on with making arrangements for your appeal hearing.

It is unlikely that we will be able to hold face-to-face hearings safely in the current Coronavirus period, even if some of the existing lockdown restrictions are relaxed. The current arrangements (to comply with The School Admissions (England) (Coronavirus) (Appeals Arrangements) (Amendment) Regulations 2021) allow for virtual hearings and therefore we currently aim to hold appeal hearings by telephone wherever possible. However, if there are reasons why you cannot participate in a telephone hearing, the panel may agree to your case being dealt with using the written information you have provided. We will contact you to discuss this further. If the panel does agree to your case being dealt with using the written information provided you will be sent guidance on how this process will work.

### **Virtual telephone hearing**

At least 14 days before the hearing (or possibly later if you've waived your right to 14 days' notice) we'll send you an **appointment letter** with the date and time for your appointment with the appeal panel. If we have several appeals for the same school the letter will give you two appointments as your appeal will be held in two separate stages and this is likely to be on different days. The letter will give you the names of the panel members who will be hearing your appeal. If you think you have a connection with any of them, please let us know as soon as possible. The letter will also explain how you can join your appeal hearing. If you have two appointments how you join each stage is different, the letter will explain this to you.

Your appointment letter will also tell you which type of appeal yours will be heard as and will include a flowchart to show the procedure your appeal hearing or hearings will follow. There are broadly two different types of appeals –

- (1) Infant Class Size Prejudice/Future Infant Class Size Prejudice and
- (2) Prejudice Appeals.

**This is very important, as if your appeal is to be heard as an Infant Class Size or Future Infant Class Size appeal it means there are limited grounds the panel can consider. Further information on Infant Class Size/Future Infant Class Size appeals can be found at Appendix A (page 7). Please make sure you read this information carefully before submitting your appeal.**

Before your appeal is heard we will also send you the **paperwork** relating to your case, including all of the written information we have received from you and all of the written information the Admission Authority have submitted to us. We don't expect you to provide a written response to the Admission Authority's case as you'll have the opportunity to ask questions of their representative at your appeal. This information is often sent to you at the same time as your appointment letter, but it may be sent out a few days later.

If you wish to submit any extra written information this can be sent to us up to 10 days before your appeal hearing. Please send your information to us by email if you can but please note there is a 10MB limit. If you send more than this limit we will not get your information and will not know that

you have tried to send it to us. If you need to send more than 10MB please either split it across more than one email or contact us regarding how else to provide it. Regardless of how you have sent the information to us we will acknowledge that we have received it so if you don't hear from us within three working days please call us on the telephone number in your appointment letter or on 0300 500 80 80 to make sure we have received what you have sent.

If you have any **special requirements** such as an interpreter, please let us know as soon as possible by calling 0300 500 80 80 so we can arrange this for you.

We will send you a text reminder a few days before your appointment.

### **At the hearing**

You're responsible for **presenting your case** to the panel and we recommend you join the virtual telephone hearing or hearings to do this. You may, if you wish, include a friend or supporter in your hearing to help you present your case. Alternatively, you may also choose to ask someone to participate on your behalf, please let us know if you wish to do this.

If you choose not to join your virtual telephone hearing or, if you have two separate stages, stage 2 of your hearing your case will be heard based on the written information you have provided.

### **For a separate stage 1 hearing (when you have been given two appointments.)**

The stage 1 hearing is to hear the school's case only and will involve all those who have appealed for a place at the school. There is no discussion of your reasons for appealing or your circumstances, (this is done in stage 2 which is confidential to your case.) Your appointment letter will give you a telephone number and ID so that you can join the hearing. Please do this at least five minutes before the time of the hearing. Once you have successfully joined the call you will be asked to identify yourself and then asked to remain silent whilst all the other appellants are brought into the hearing, this could take a few minutes. The facilitator will then bring in the panel, clerk and finally the representative of the school.

### **For stage 2 hearings or if you have just the one appointment.**

We will attempt to call you a few minutes before your hearing is due to start using the number you have given us so that we have all parties on the call ready to begin. Please note that we may be running behind schedule if earlier appeals have taken longer than expected. If we are unable to contact you or you have told us you do not wish to join, the panel may hear your appeal without you based on the written information you have provided.

Your appeal will be heard by three panel members who are all volunteers and are independent of you and the Admission Authority/School. There will also be a clerk present who is there to provide legal advice to the appeal panel, take confidential notes of the hearing for the appeal panel's use only and to take a record of the decision they make.

The Admission Authority will send a representative to present their case and answer questions and may also bring a witness to give evidence about the school.

Your virtual telephone hearing will include a facilitator from the Education Appeals Team who will be responsible for bringing and keeping all parties in the virtual hearing as far as possible.

If we have received several appeals for the same year group at a school, we will group the appeals together and the same appeal panel will consider all of the cases (group hearing). This is because the reason places couldn't be offered to the children is the same, so the panel needs to consider all of the appeals together. There will be two stages at different times, stage 1 for the school's case only and stage 2 to hear your case only. Each appellant will have their own appointment time with the panel, but the panel will not make its decisions on the cases until it has heard them all.

A **flowchart** provided with your appointment letter will explain what will happen at your appointment.

Appeal hearings usually take no more than an hour. However if you need longer this will be allowed. This may mean that the appeal hearings are running late so we ask that you understand that we will call you as soon as we can and you will not be limited in your time even if your appeal starts late.

### **Decision making**

After your appeal has been heard, you and the Admission Authority representative will be asked to leave the call and the appeal panel will make its decision in private. Decisions are taken by simple majority. The decision is binding upon the Admission Authority if your appeal is upheld.

For group appeal hearings the appeal panel will only make its decision on your appeal after all of the cases in the group hearing have been heard. The clerk, at the appeal hearing, will tell you when all of the decisions are due to be made which could be a number of days after your hearing has taken place.

You will be sent the decision by **letter** which will set out the decision and the reasons for it. This will be posted out within 7 days of the panel making its decision wherever possible. We don't give decisions over the telephone or by email so please don't call or email the office to find out the appeal panel's decision.

If you haven't received your decision letter two weeks after the decision was due to be made, please contact the Education Appeals Team.

### **WHAT IF I'M NOT HAPPY WITH THE OUTCOME OF MY APPEAL?**

If you feel your appeal hearing **wasn't conducted properly** you can submit a complaint to either the **Local Government and Social Care Ombudsman** (for maintained and Voluntary Aided schools) or the **Education and Skills Funding Agency** (for free schools, academies, university technical colleges and studio schools). Please be aware that these bodies can only examine how your appeal or application was processed, this is not a further right of appeal if you are unhappy with the panel's decision.

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](http://www.gov.uk/schools-admissions/appealing-a-schools-decision).

The Local Government and Social Care Ombudsman has the following factsheets which provide some general information about the most common types of complaints which you may find useful:-

<http://www.lgo.org.uk/make-a-complaint/fact-sheets/education/infant-class-size-appeals>

<http://www.lgo.org.uk/make-a-complaint/fact-sheets/education/school-admissions>

If anyone concerned with the appeal (you as the parent/carer, or the Admission Authority) believes that the decision of the Appeal Panel was legally in error, they can seek to challenge the decision

of the appeal panel by means of what is known as **judicial review**. If you wish to consider this course of action you should take independent legal advice.

### **Further Information**

#### **Democratic Services Team**

If you would like any further information about the process please email [education.appeals@nottsc.gov.uk](mailto:education.appeals@nottsc.gov.uk) or call 0300 500 80 80.

#### **Advisory Centre for Education (ACE)**

ACE is an independent education advice centre which provides information on the education system - <http://www.ace-ed.org.uk/advice-about-education-for-parents>

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

Coram Children's Legal Centre provides free, independent advice on all areas of child, family and education law <http://childlawadvice.org.uk>

#### **County Council Admissions Team**

If you want to find out about where places are available at alternative schools you need to speak to Admissions on 0300 500 80 80 or email [admissions.ed@nottsc.gov.uk](mailto:admissions.ed@nottsc.gov.uk)

### **Useful Links:**

Making a school admission appeal:

<http://www.nottinghamshire.gov.uk/education/school-admissions/making-a-school-admission-appeal>

Determined admission arrangements and list of schools who are their own admission authority:

<http://www.nottinghamshire.gov.uk/education/school-admissions/determined-admission-arrangements>

List of academies, voluntary aided, foundation and free schools we clerk: [Academies - Democratic Services.pdf](#)

Appealing a schools decision (Government guidance):

<https://www.gov.uk/schools-admissions/appealing-a-schools-decision>

School Admissions Code:

<https://www.gov.uk/government/publications/school-admissions-code--2>

School Admission Appeals Code:

<https://www.gov.uk/government/publications/school-admissions-appeals-code>

Guidance on the changes to the admission appeals regulations during the coronavirus outbreak:

<https://www.gov.uk/government/publications/school-admissions-appeals-code/changes-to-the-school-admission-appeals-code-regulations-during-the-coronavirus-outbreak>

## **APPENDIX A**

### **Infant Class Size**

The Law states that in infant classes there must be no more than 30 pupils per teacher. If this applies to the school in either the academic year you are appealing for or in future infant academic years then your appeal will be dealt with as an Infant Class Size Appeal/Future Infant Class Size Appeal. We'll tell you if this applies in the letter we send you giving you information on your appeal hearing.

In Infant Class Size appeal hearings the appeal panel is essentially reviewing the Admission Authority's decision to refuse a place at the school in question. (Based on the information the Authority had available at that time.) The appeal panel doesn't have the flexibility to say that your personal circumstances mean you should have a place at the school if this would take the number of children in the class to over 30. This makes Infant Class Size appeals different to other school admission appeals.

During the 2018/19 normal Admissions round only **5%** of Infant Class Size appeals were allowed (appeals to start Reception in September 2018 which were heard between 6<sup>th</sup> June and 31<sup>st</sup> August 2018 inclusive).

The grounds which an Appeal Panel can legally allow an infant class size appeal are limited to the following four grounds:-

- Admitting additional children would not breach the infant class size limit (there are not 30 children per fully qualified teacher in the year group).
- Your child would have been offered a place if the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998 had been applied correctly (*i.e. something unlawful in the arrangements meant your child didn't get a place they would have got had the arrangements been lawful.*)
- Your child would have been offered a place if the admission arrangements had been correctly and impartially applied in your case (*i.e. there has been an error in how your application was processed which meant your child wasn't given a place that they would have got had the arrangements been correctly applied.*)
- The decision was not one which a reasonable Authority would make in the circumstances of the case. The threshold for an unreasonable decision is very high and would be one that is perverse. (*i.e. completely illogical or irrational, taking into account all the relevant facts of the case so that no Admission Authority looking at the case would have ever refused it.*)

The Local Government Ombudsman has published a factsheet on complaints about Infant Class Size appeals which provides useful information to parents regarding the limitation of Infant Class Size appeals. <http://www.lgo.org.uk/make-a-complaint/fact-sheets/education/infant-class-size-appeals> In this factsheet, the Ombudsman states that "a decision that makes it impossible for you to transport all your family to school on time, or even impossible for you to continue working, is very unlikely to be perverse. The courts have established this."

You may refer to personal factors on your appeal form or at the hearing, and the appeal panel will take them into account when considering whether the decision to refuse your application was a reasonable one. Further details on the reasonableness test can be found in paragraph 4.10 of the School Admissions Appeals Code.

As the question of reasonableness relates to whether the decision made by the Admission Authority to refuse admission was unreasonable, the Panel will consider what information the Admission Authority had available to it at the time when it made the decision to refuse.