

SOUTHAMPTON CITY COUNCIL

KEY STAGE 1 APPEALS GUIDANCE NOTES FOR PARENTS/CARERS

Please read these guidance notes carefully

1 Parental Preference and Statutory Right of Appeal

Section 86 of the School Standards and Framework Act 1998 requires admission authorities to meet any preference expressed by parents as to the school they wish their child to attend.

However, Section 86 also states that any such preference need NOT be met if to do so would prejudice the provision of efficient education or the efficient use of resources.

Under Section 94 of the 1998 Act you have a right of appeal to an Independent Appeal Panel if your child is refused admission to your preferred school. Your appeal must be made in writing on the designated appeal form. Please read these guidance notes very carefully.

2 Infant Class Size Appeal – Key Stage 1 Appeals

The School Standards and Framework Act 1998 states that with effect from 1st September 2001, no child in an infant class (that is Year R, Year 1 or Year 2) at a maintained school will be in a class of more than 30 taught by a single qualified teacher. Admission Authorities can refuse to admit a child to an infant class where to do so would conflict with this statutory class limit. Academies are required by their funding agreements to comply with the Code and the law relating to admissions, though the secretary of state has the power to vary this requirement if there is demonstrable need.

Parents may still appeal if they are refused a place at their preferred school but the legislation only allows appeal panels to uphold an appeal if they are satisfied that one or more of four specific circumstances described below apply:

- a) that the admission of an additional child/children would not breach the infant class size limit
- b) that the admission arrangements (including the area's coordinated admission arrangements) did not comply with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998
- c) that the admission arrangements were not correctly and impartially applied in the case in question
- d) that the decision to refuse admission was not one which a reasonable admissions authority would have made in the circumstances of your case

If none of these grounds applies to your case, then the law states that the appeal panel has no choice but to refuse your appeal.

Your appeal **must**, therefore, state which of the above grounds apply to your case and the reasons you give for appealing should relate to one or more grounds. If you decide to appeal, please state on which ground you are appealing and why.

3 The Independent Appeal Panel

Appeal Panels are constituted in accordance with Schedule 24 of the 1998 Act. Panels consist of three members who fall into one of two categories – lay members and those with experience of education. Panels must always include one member from each category with the third being from either category. Lay members are people without personal experience in the management or provision of education in any school in Southampton.

4 Appeal Hearings

a) Notification of the Hearing

You **must** be notified of the date, time and place where the appeal will be held at least 10 school days before the hearing. However, if you appeal late and there is a hearing already arranged for your preferred school in less than 10 days from the receipt of your appeal form, you can request for your appeal to be included at the hearing by waiving your right to the 10 days notice. To do this, complete and sign section 6 of your appeal form.

b) Preparing for your hearing

The admission authority is required to provide a written statement explaining the admissions arrangements and how they were applied and the reasons for the decision to refuse admission. This statement must be supplied in advance of the hearing. At least seven working days before the appeal you will receive a pack containing the admission authority's statement, together with a copy of your own appeal form and any supporting documentation you may have submitted. This same pack is also sent to the appeal panel members and the admissions authority.

You are very strongly advised to attend the hearing in person to present your case, as it helps the appeal panel to be able to talk to parents/carers. If you do not wish to attend, or are unable to, the Panel will deal with your case based on the written evidence on your appeal form and any supporting documents you have submitted.

You may be accompanied by a friend or be represented by someone (including legal representation if you wish, though this is not normally necessary or appropriate). If you do intend to be represented you should advise the Clerk to the hearing in writing in advance. Please note that friends or representatives attending the hearing cannot be a representative of the school concerned. It is not normally appropriate for the children who are the subject of an appeal to attend the hearing.

5 The Hearing

The Appeal Panel hearing will be as informal as possible and the proceedings will be based on the principles of fairness and impartiality in accordance with the School Admissions Appeal Code and operate according to principles of natural justice.

The Chair of the Appeal Panel will introduce the proceedings and explain the procedure for the hearing. The Panel will follow the following process:

Would admitting another child breach the infant class size limit?

This is where admitting another child would mean children being taught in classes of more than 30 children per teacher

Was a place refused in error?

This is where the admissions authority provides information about the published admission arrangements to satisfy parents and the appeal panel that they have been properly implemented. It allows you and the Panel to explore how the admissions process was administered (e.g. to find out if any mistakes were made). In a multiple appeal (i.e. more than one set of parents/carers are appealing) all parents/carers will be present together for this.

Are the admission arrangements contrary to the mandatory provision in the Schools Admissions Code and the SSFA 1998?

This is where the admission authority provides information about how the Admission Policy was formally agreed and how it complies with the above mandatory provisions

Was the decision reasonable and consideration of infant class size prejudice?

This is to satisfy parents and the appeal panel that the admissions authority did not make an unreasonable decision when it refused your application on the basis that the admission of further children would conflict with infant class size limits. The admissions authority representative will explain what measures have been taken to comply with the legal limit on infant class sizes and why the admission of further children would conflict with the efficient use of resources or provision of education as represented by these measures. In a multiple appeal all parents/carers will be present together for this.

These presentations are normally made together. Once this presentation is complete you will have the opportunity to question the admission authority about information provided. *At this point you should not go into your own case as to why you want your child to go to the school.*

The Parents' Case

This is when you put your case to the appeal panel as to why your child should be admitted. During this stage, only you and the admission authority will be present with the Panel. In a multiple appeal all other parents/carers will be asked to leave the room so that your individual reasons are heard in confidence.

You will be asked which ground you are appealing under (Ground A, B, C or D) and why. The Panel may ask you questions during your presentation. The admission authority representative will have an opportunity to ask questions when you have completed your presentation. After all the questioning has been completed, you will be given a chance to sum up your case. After this your appeal ends and you will be told when and how you will be informed of the Panel's decision.

6 Helpful Hints for Presenting your Case

You must remember that the law only allows Appeal Panels to allow appeals on the specific circumstances – Ground A, B, C or D– applies. If none of the circumstances apply, the law states that Panels must refuse your appeal – they have no choice.

It is important, therefore, that you make sure your case relates to one or more of these grounds.

Ground A – The infant class size limit

To be successful on Ground A you must be able to show that admitting another child to the year group would not make children be taught in classes of more than 30 children per teacher.

Ground B – Contrary to Mandatory Provisions

To be successful on this ground you must show that your child would have been offered a place if the arrangements had not been contrary to mandatory provisions in the School Admissions Code and the SSFA 1998.

Ground C - Arrangements not correctly applied

To be successful on Ground C you must show both that the admission arrangements were not correctly and impartially applied to your case AND that if they had been correctly and impartially applied your child would have been offered a place at the school

Ground D – An unreasonable decision by the admissions authority

To be successful on this ground you must be able to show that the decision made was one that no other admission authority could reasonably come to. **The mere fact that your child was not offered a place is not itself an unreasonable decision.** The definition of reasonable that has to be applied is “perverse in the light of the admission arrangements” 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”

You should try and show that there is some other exceptional and overwhelming reason why your child should go to that school.

7 The Appeal Panel Decision and Notification

The decision of the Independent Appeal Panel is final and binding on the admission authority and will be notified to you and the admissions authority in writing, by the Clerk to the Panel, as soon as possible after the hearing and must be sent within five working days. You will not be told the Panel’s decision on the day of the hearing.

In coming to its decision, the Appeal Panel must decide whether it is satisfied that one, or more, of the circumstances set out in paragraph 5 apply to your case. If they do, your appeal will be allowed and your child will be admitted to the school. If not, your appeal will be dismissed and the refusal of admission confirmed.

Having read the guidance above, if you still wish to appeal, please follow the instructions on the enclosed document entitled ‘APPEAL PROCEDURE’
--