

NORTH YORKSHIRE COUNTY COUNCIL

THE SCHOOLS STANDARDS AND FRAMEWORK ACT 1998
as amended by THE EDUCATION ACT 2002
and THE EDUCATION AND INSPECTIONS ACT 2006

SCHOOL ADMISSION APPEALS

PRIMARY SCHOOLS: INFANT CLASS SIZE 30

NOTES FOR PARENTS

These Notes are for Parents/Carers who wish to appeal against a decision by the Admission Authority (the Local Authority/Governing Body) to refuse admission to a Primary School on the grounds that to make a further admission to Key Stage 1 of the School would breach the size of an Infant Class (a class in which the majority of children will reach the age of 5, 6 or 7 during the school year) which must not contain more than 30 pupils with a single School Teacher.

1. THE APPEAL PANEL

- 1.1 Following rules established in law, North Yorkshire County Council has decided that its Appeals Panels will normally consist of three people. The Panel is independent of the Admission Authority.

2. THE CLERK

- 2.1 The Clerk to the Appeal Panel will be an officer in Legal and Committee Services of the County Council. These officers are not involved with the Admission process. Their job is to make arrangements to hear appeals; to be an independent source of advice on procedure and the law on admissions; record the proceedings, decisions and reasons; and to inform all parties of the Panel's decisions. If you have any enquiries about the appeal procedure do not hesitate to contact Legal and Committee Services at County Hall, Northallerton (01609) 533385, 532943, 532840, or 532208.

3. LODGING YOUR APPEAL

- 3.1 The appeal is lodged by you sending the completed Notice of Appeal form to the address provided on the front of the appeal form, by the date it gives you. It is important you keep to this deadline date. If the closing date given to you presents a difficulty, contact the Local Office immediately. If your appeal is received after the specified date your case may be prejudiced by it not being heard at the same time as other appeals in respect of that school, or by you being given short notice of the Hearing date.
- 3.2 You will receive written acknowledgement of receipt of your appeal, which is then forwarded to the Clerk to the Appeal Panel.

4. BEFORE THE HEARING

- 4.1 The Clerk will give you at least 10 school days notice (from the date of posting) of the date on which the appeal will be heard (unless you have appealed late).

4.2 At least 5 working days before the Hearing (not less, unless you have appealed late and you have agreed to a shortened timetable (see para 4.3)), you will be sent a Statement of the Admission Authority's Case for the Primary School you wished your child to attend, and the reason for not complying with your preference.

4.3 If you do not submit your Notice of Appeal by the date stated, your appeal might not be heard on the same day as the rest of the appeals for the same Primary School. This could prejudice your chance of a successful appeal.

5. **PURPOSE OF THE HEARING**

5.1 The task of the Appeal Panel is to consider the 'cases' put forward by both 'sides' (you and the Admission Authority) and come to a decision on whether to allow your appeal or not.

5.2 While your appeal must be submitted in writing (as must the Admission Authority's reasons for refusing your application), you are given an opportunity to attend the Hearing to put your appeal in your own words to the Panel, and also to hear and challenge the Admission Authority's explanation of the decision you are appealing against.

5.3 If you do not wish to attend, the appeal will be decided on the written information you have provided, and the written information which has been given to you by the Admission Authority. If you are unable to attend, the Appeal Panel will certainly not take your non-attendance to suggest that you are not wholehearted about your appeal. If you are uncertain about your position, please contact the Appeals Office, Legal and Democratic Services on (01609) 533385/532943/532840/533320.

6. **RELEVANT ISSUES**

6.1 Infant classes (Key Stage 1) where the majority of children will reach the age of 5, 6 or 7 by the end of the academic year (apart from certain limited exceptions), must not contain more than 30 pupils with a single class teacher.

6.2 The Admission Authority has refused admission to the school on the grounds that to admit an additional child would breach the Infant Class Size Limit and there are no measures it could take to avoid this, without prejudicing the provision of efficient education, or the efficient use of resources.

6.3 You may raise (either in writing, or in person at the appeal hearing), anything that you believe helps explain why you believe that the decision was not one which a reasonable Admission Authority would make in the circumstances of your case; or that your child would have been offered a place at the School, if the admission arrangements had been correctly and impartially applied.

6.4 You do not have to send written evidence of any of the above, but it might help your case if you do.

6.5 However, if there is some medical, or social reason for your preference, the Panel will expect to see a written medical report from your child's Doctor, or a report from an appropriate professional body. The Admission Authority, too, will want to see a report - or anything else in writing submitted in support of your case, just as you will see anything the Admission Authority intends to use to support its case. This information should be received by the Appeals Office of Legal and Democratic Services at least five working days before the hearing so that it can be sent to the

Members of the Appeal Panel, and to the Admission Authority to enable it to be given proper consideration.

- 6.6 Clearly, both the Panel and the Admission Authority's representative must have enough time to consider everything put before them. Thus, if something important is brought out for the first time at the Hearing, the Panel, or the other party, may want the Hearing adjourned to be able to fully consider it. Clearly, it is in everyone's interest to avoid this if possible.

7. THE APPEAL HEARING

- 7.1 The Hearing itself is a formal occasion, however, the Panel members and the officer's involved do try their best to make appellants feel as much at ease as possible, within that format. After the Chairman has introduced those present, he or she will invite those present to speak in the following order:

- The representative of the Admission Authority, to put the case for the decision to refuse admission.
- You, to question the Admission Authority's representative.
- You, to put your case for your child's admission.
- The Admission Authority's representative, to question you.
- The Admission Authority's representative, to sum up its case.
- You, to sum up your case.

- 7.2 The Appeal Panel Members may ask questions at any time during the proceedings.

- 7.3 You may be may be represented at the Hearing, or accompanied by a friend or some other person.

- 7.4 If you wish to be accompanied, please inform The Appeals Office of Legal and Democratic Services by telephone or in writing, in good time. Whilst it is not usual for witnesses to be heard, if you wish to bring a witness with you, it is for the Appeal Panel to agree that they can be present. The evidence to be given by witnesses must be relevant to the issues involved in the appeal and not just repeat information provided by another party. If you need further advice please contact the Appeals Office of Legal and Democratic Services on:- (01609) 533385 / 532943 / 532840 / 533320,

- 7.5 Appeals will be heard in private. However, the Appeal Panel might ask several parents/carers to attend together where all appeals relate to admission to the same school. When the Admission Authority's case has been presented, parents/carers will then jointly have the opportunity to question the case. At the conclusion of this part of the appeal hearing, each child's case will be heard individually in private, without the presence of other appellants.

- 7.6 When you and the Admission Authority's representative have completed your cases, and you have both withdrawn, the Panel will consider everything which has been said and placed before them and will come to a decision. If you do not attend the Hearing

the Local Authority's representative will still withdraw before the Panel considers its decision.

- 7.7 The Clerk will stay with the Appeal Panel, but only to advise on law and procedure, to refer to notes taken during the course of the hearing and to record the Panel's decisions and the reasons for them. She will take no part whatsoever in this decision making process.

PLEASE NOTE: THE CHILD INVOLVED IN THE APPEAL SHOULD NOT BE BROUGHT TO THE HEARING.

8. THE DECISION ON YOUR APPEAL

- 8.1 The Appeal Panel may come to a decision immediately. If they have a number of appeals concerning admission to the same School, however, they will wait to hear all of the appeals before arriving at their final decisions.

- 8.2 The Government decided that from September 2001 (subject to certain limited exceptions), Infant Classes of 5, 6 and 7 year olds may not contain more than 30 pupils with a single School Teacher.

- 8.3 As this applies in your case, the Admission Authority has refused your application on the grounds that "to make an additional admission to the School would breach the Infant Class Size Limit.

- 8.4 The Appeal Panel will follow a two stage decision making process when considering Infant Class Size appeals.

a) **FIRST STAGE** – examining the decision to refuse your child admission

The Appeal Panel will consider the following matters:-

- (i) Whether the admission of an additional child/additional children would breach the Infant Class Size Limit;
- (ii) Whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998;
- (iii) Whether the admission arrangements were correctly and impartially applied in your child's case;
- (iv) Whether the decision to refuse your child admission to the School was one which a reasonable Admission Authority would have made in the circumstances of your case.

- 8.5 The Appeal Panel may only UPHOLD your appeal at this first stage where:

- It finds that the admission of an additional child/additional children would not breach the Infant Class Size Limit; or
- It finds that the admission arrangements did not comply with admissions law, or were not correctly and impartially applied and your child would have been

offered a place at the School if the arrangements had complied, or had been correctly and impartially applied; or

- It decides that the decision to refuse your child admission to the School was not one which a reasonable Admission Authority would have made in the circumstances of your case

8.6 In multiple appeals where a number of children would have been offered a place under Paragraph 8.5 above and to admit that number would seriously “prejudice” the provision of efficient education, or the efficient use of resources, the Appeal Panel will proceed to the Second Stage

8.7 Your appeal will NOT BE UPHOLD at this first stage where the Appeal Panel:

- Finds that the admission arrangements did comply with admissions law and were correctly and impartially applied in your child’s case; or
- Finds that the admission arrangements did not comply with admissions law, or were not correctly and impartially applied in your child’s case but that, if they had complied and had been correctly applied to your child, your child would not have been offered a place at the School.
- AND it finds that the decision to refuse your child admission to the School was one which a reasonable Admission Authority could have made

8.8 b) **SECOND STAGE** – comparing cases

8.9 The Appeal Panel must compare each appellant’s case for their child to be admitted and decide which of them, IF ANY, to uphold. Where the School could admit a certain number of children without breaching the Infant Class Size Limit (or without needing to take measures to avoid breaching it that would “prejudice” the provision of efficient education, or the efficient use of resources) the Appeal Panel must uphold the appeals of at least that number of children.

8.10 CONSIDERATION OF “REASONABLENESS”

8.11 The threshold for an Appeal Panel finding that an Admission Authority’s decision to refuse your child a place at the School was one that a reasonable Authority would have made is high. In order for a Panel to determine that an Admission Authority’s decision to refuse admission was unreasonable, it will need to be satisfied that the decision to refuse to admit the particular child was “perverse in the light of the admission arrangements”, ie 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.

9.0 **NOTIFICATION OF A DECISION**

9.1 The decision of the Appeal Panel, and the reasons for it, will be sent to you and the Admission Authority in writing as soon as possible after the date of the Hearing. However, the Clerk usually makes an arrangement for you to telephone, if you wish, to ask for the decision on your appeal, prior to the written confirmation. You will be advised about the arrangements on the day of the Hearing.

9.2 The decision of an Appeal Panel is binding both on you and on the Admission Authority and there is no provision for your appeal to be taken further.

10.0 **COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN**

10.1 The Local Government Ombudsman can investigate complaints about maladministration on the part of an Appeal Panel for a maintained school. **A complaint to an Ombudsman is not a further appeal.** It must relate to the administration of an appeal, rather than the appeal decision. Maladministration covers issues such as failure to follow correct procedures, or failure to act independently and fairly. It does not cover the merits of decisions that only the Panel had the authority to make. Therefore, generally, the Ombudsman cannot consider whether the Appeal Panel was correct to uphold, or dismiss your appeal.

10.2 The Ombudsman is **NOT** able to overturn an Appeal Panel's decision but, where they find that there has been maladministration they may make recommendations for a suitable remedy. For example, they may recommend that an appeal is reheard by a different Panel and with a different Clerk.