

A GUIDE FOR PARENTS

“APPEALS AFFECTED BY INFANT CLASS SIZE LEGISLATION”

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number here: (see page 4)

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2011



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INTRODUCTION

You have requested this Infant Class Size Appeal booklet and form because the Admission Authority has not allocated your child to your preferred primary school. When we say Admission Authority in this booklet we mean either the council itself or, in the case of Foundation and Voluntary Aided Schools, the Governing Body of that school.

As the person with parental responsibility for your child, the law allows you to appeal against the decision of the Admission Authority to an impartial body known as the Independent Appeal Panel (“IAP”).

The IAP has the power to decide whether your child should be offered a place at your preferred school and the Admission Authority must comply with the IAP’s decision. However, because you are seeking a place for your child in a classroom with other children who will be aged five, six or seven, you should be aware that the law does not allow the Admission Authority to exceed 30 children in classes of this type with a single school teacher. If this limit is breached, the Admission Authority would have to take qualifying measures and provide additional accommodation or teacher in order to comply with the regulations. Therefore, although you, as parents, have a legal right to appeal, national statistics show that there are only 2% of Reception, Year One and Year Two classes that have over 30 children in a class. To demonstrate the small success rate of these appeals, we heard 147 Infant Class Size Appeals in Buckinghamshire last year and only 9 of those were successful.

This booklet explains how appeals affected by Infant Class Size legislation work and the steps that we take to make your appeal as straightforward as possible.

If you need further information, please do not hesitate to contact a member of the Appeals Team. Our contact details are as follows:

The Appeals Team
Legal and Democratic Services
Buckinghamshire County Council
County Hall, Walton Street
Aylesbury, Buckinghamshire
HP20 1UA

Telephone: 01296 383384/3677/3695 Fax: 01296 382421
E-mail: appeals@buckscc.gov.uk

Gujarati

Urdu

Polish

Osoby nie mówiące po angielsku powinny poprosić swoich znajomych znających język angielski o telefoniczne skontaktowanie się z naszym zespołem do spraw przyjęć (AppealsTeam) pod nr. Tel. 01296 383384. Informacje zostaną przesłane w języku polskim lub zapewniona zostanie pomoc tłumacza.

HOW DO I REQUEST AN APPEAL?

Once you have read this booklet and decided to appeal, you should complete the enclosed blue appeal form and return it to the Appeals Team within 14 days of the date of issue (shown on the top right hand corner of the form). If your appeal form is returned late, it is quite possible that there will not be an appeal appointment available for your preferred school until later in the year. This means that you may miss the first round of appeals for the school and may have to wait some time before any further appeals for that school are heard.

If you have more evidence that you wish the members of the IAP to consider, you can send it to us separately after returning the appeal form.

It is likely that there will be other parents appealing for a place at your preferred school. The Appeals Team must try to arrange for all of the appeals for the same school that are received in the office at the time of scheduling, to be heard as a group by the same IAP. Sometimes, where there are very large numbers of appeals for the same school, the appeals will run over several days or weeks.

Due to the very large number of appeals we receive, we are not able to confirm receipt of your appeal form over the telephone or collect forms in person from Reception. However, the staff on Reception will be pleased to provide you with a receipt for any documentation you leave with them.

We aim to acknowledge receipt of your form within 7 working days. If you have not received an acknowledgement letter by this time, please contact our office. The letter you receive will provide you with a five-digit reference number, which you will need to quote every time you contact us. There is a space on the front of this booklet for you to record this number. If you have any further supporting evidence you wish to send to us, please clearly write your reference number on it.

WHO ARE THE INDEPENDENT APPEAL PANEL MEMBERS?

IAP members are specially trained volunteers who have an interest in education within Buckinghamshire. Each panel is made up of three members, a Chairman and two wing members and must consist of at least one Lay and one Non Lay member, in line with the School Admission Appeals Code of Practice. Lay members are people without personal experience in the management or provision of education in any school, disregarding experience in a voluntary capacity, such as a school governor. Non Lay members have experience in education and are familiar with educational conditions in the area or they are parents of a registered pupil at a school.

Some people are not permitted to hear education appeals. This includes any person employed by the Local Authority in a capacity connected with education.

IAP members are trained regularly on the law and its procedures in relation to education appeals.

WHEN AND WHERE WILL MY APPEAL BE HEARD?

Admission appeals can take place at any time because families move into Buckinghamshire throughout the year and often find their preferred school full. You have 14 days from the date of allocation to return your appeal form and you will be given a minimum of 14 days notice for a date of appeal. Appeals do not normally take place during Buckinghamshire's school holiday dates.

Your appeal may begin at any time from 09:30 to 15:30 and will be at one of our suitable venues in Buckinghamshire. Please let a member of the Appeals Team know if you need disabled access, so we can be sure to offer you the most suitable venue for your child's appeal, or if you need the services of a translator so that we can make the arrangements for you.

Where there are two or more appeals for your preferred school, you will be given two separate appointment times, which may be on different dates. The first time you are given will be for a grouped hearing, to which a representative of the school is invited and the second time (and possible different date) will be the opportunity for you to tell the IAP your personal grounds for appeal.

SHOULD I ATTEND THE APPEAL HEARING?

You do not have to attend but we would strongly recommend that you do. However, given the complexity and the large number of appeals to be scheduled, it is inevitable that some parents will receive a date for their appeal that they just cannot attend. If this is the case, you may send a representative on your behalf, with signed authorisation that they have your permission to represent you at the appeal hearing. This permission should be provided to the clerk before the appeal or sent to the Appeals Team in advance. IAP members do understand that it is not always possible for parents to attend. They do, however, also understand that appeals for the same school should be heard together.

If you wish to withdraw your child's appeal, please make sure that you telephone us on 01296 383384 or email us at appeals@buckscc.gov.uk. Appeal appointments are in demand and with sufficient notice, we may be able to give your appointment time to someone else.

If you do not wish to, or find that you cannot attend your appeal on the day, for whatever reason, the IAP members will make their decision based on the information available to them at the time. We call this hearing an appeal "in absentia". If you choose not to attend, please let us know in advance so the clerk does not expect you.

HOW AND WHEN DO I PROVIDE MY EVIDENCE?

IAP members like to read evidence about a child well in advance of the hearing and we send the documentation we have been

provided with, in relation to your appeal, to all parties seven working days before the appeal.

You should send your evidence to us when you first submit your appeal form. However, you may submit evidence up to and including the day of the appeal if you need to.

When you send any documents to us please ensure that:

- The correct postage is used
- They are A4 in size (please reduce or enlarge any documents that are not A4)
- They are not fastened by staples or treasury tags
- They are not in plastic or document wallets or binder/lever arch files
- They are not separated by file dividers or by any other means

There is no provision to copy any documentation in colour, therefore please bear this fact in mind when you send in your information.

Please note, if you provide significant evidence for your appeal either within 10 days of the appeal or on the actual day, it may be necessary for the appeal to be adjourned to a later date. This is required to allow the panel members time to read and consider the evidence and where necessary, for the Admission Authority to respond.

If we receive your evidence in good time before the hearing, it will be circulated to all parties as further information. Any evidence received close to the appeal date will be placed on file by the clerk for circulation on the day.

The information you provide to us is photocopied by an external reprographics company and any folders received will be recycled so may not be returned to you. **Please ensure the correct postage is attached, particularly when your appeal form is returned to us in a large format envelope. Insufficient postage**

could result in a time delay for your appeal or even result in lost documentation.

Due to Health and Safety and time constraints there is no provision at any of our appeal hearing venues to make PowerPoint, video or other audio/visual presentations about your child.

WHAT HAPPENS NEXT?

Approximately seven working days before your appeal you will be sent a copy of the Admission Authority's detailed reasons for refusing your application, a copy of your own case, including a copy of the appeal form, an Order of Business and a map of the venue.

You will also be notified of the names of the clerk and the three IAP members that will hear your appeal. Please note, however, that these names are subject to last minute change in unavoidable circumstances.

The Admission Authority's case usually contains a site plan of the school and a map of the local area serving the school, together with any other statistical or relevant information.

You will receive exactly the same information as the IAP members, the Admission Authority and the clerk. At this stage IAP members read the case papers, make notes and prepare any questions that they think will help make their decision.

An appeal should last on average between fifteen and twenty minutes and the hearings are schedule accordingly. Therefore, when planning for your appeal hearing, please consider the other parents who have been scheduled to be heard after your appeal.

WHAT WILL HAPPEN IN AN INFANT CLASS SIZE APPEAL?

When you arrive at your appeal venue, please report to the Reception desk. The clerk will come to collect you when it is time for your appeal.

If there is more than one appellant for your preferred school, the Grouped Hearing, or first part of your appeal, will take place in the presence of all the parents of children appealing, the IAP, clerk and the Admissions Authority representative and/or school representative.

For individual appeals, the only people in the room for your appeal will be you, the members of the IAP, the clerk and the Admissions Authority representative and/or school representative. The Chairman and the other members of the IAP will introduce themselves to you and welcome you. The clerk and the Admissions Authority representative will also be introduced to you and the Chairman will explain the procedure. They will follow the Order of Business which you will have received with your case papers.

The clerk will remain in the room with the IAP members whilst they make their decision. At no stage during the appeal will either party (you or the Admission Authority's representative) remain in the presence of the IAP members without the other. The emphasis in every appeal hearing is on informality, fairness and transparency.

HOW SHOULD I PRESENT MY INFANT CLASS SIZE APPEAL CASE?

For Infant Class Size appeals, there are very limited circumstances in which an appeal panel can direct a child to be admitted to a school. If there are already 30 children in the class, to admit another child would require, for example, the school to employ a further teacher, in order to keep infant class sizes to 30.

An appeal can only be upheld if the appeal panel is satisfied that either:

- a) your child would have been offered a place if the admission arrangements had been properly implemented;**
 - b) your child would have been offered a place if the admission arrangements had complied with the mandatory requirements in the School Admissions Code and the School Standards & Framework Act 1998 (“SSFA”);**
- and/or**
- c) the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.**

If you are appealing under a), you must show that there has been an error in the way the admission arrangements were applied. You must also show the panel that if this error hadn't occurred, your child **would** have been offered a place.

If you are appealing under b), you must show

- I. the admission arrangements have not complied with the School Admissions Code and SSFA and
- II. had the admission arrangements complied with the mandatory requirements of the School Admissions Code and the SSFA, your child **would** have been offered a place

If you are appealing under c), you must show why the decision to refuse admission to your preferred school was not a reasonable one. The word 'reasonable' in this instance is given a legal meaning, rather than its everyday meaning. That is to say that the panel must decide whether the decision is so perverse that no reasonable Admission Authority could make that decision to refuse admission. If your appeal is successful the school will be obliged to comply with the legislation and take qualifying measures to accommodate your child. These special measures may include

employing another teacher and/or building another classroom. Any argument you provide alleging unreasonableness must therefore be a particularly strong one.

At the end of your appeal the Chairman will ask if you have had time to say everything you wish to say. Please do make sure at this stage that you have mentioned all the reasons and provided all the evidence that you wish to. There is no further opportunity to do so after you have left the room and the appeal is over.

The clerk will remain in the room with the IAP members whilst they make their decision about your child. At no stage during the appeal should you or the Admissions Authority representative be on your/their own with the IAP members.

Please note that the Admission Authority representative will not be able to discuss your appeal with you either before or after your hearing. Should you have any queries on the admissions process, you should contact the Admissions & Transport Team on 01296 383250 or email admissions@buckscc.gov.uk.

Once the appeal has ended all spare copies of evidence are treated as confidential waste and will be destroyed.

WHEN WILL I KNOW THE DECISION OF THE IAP?

Whatever year of entry you are appealing for, the clerk will write to you within seven days of your hearing or within seven days of the last appeal if there are several appeals for your preferred school. Decisions of the IAP are not given over the telephone or by email but are sent out by first class post.

WHAT HAPPENS IF MY APPEAL IS UNSUCCESSFUL?

The decision of the IAP is final and legally binding on all parties. A decision may be overturned by the High Court, where the appellant

or Admission Authority is successful in applying for a Judicial Review of that decision.

You may appeal for another school but you may not appeal for the same school more than once for any academic year. You will need to speak to the Admissions and Transport Team who will advise you and provide you with a new appeal form if you so wish. Contact details for the Admissions & Transport Team can be found on page 17 or you can find more information at www.buckscs.gov.uk/schooladmission.

In a small number of cases where, over time, the circumstances surrounding a child's application to a particular school vary significantly and materially, then the Admission Authority may agree that the case would merit re-determining. The Admission Authority is only likely to do this in exceptional circumstances and/or where there is strong support from an appropriate professional.

WHAT CAN I DO IF I AM NOT HAPPY WITH THE DECISION?

If you feel that your appeal has not been handled properly, you should complain in the first instance to the Appeals Team who will investigate your comments. You will usually receive an acknowledgement within ten working days, which will indicate when you are likely to receive a full response. In line with Buckinghamshire County Council's Feedback and Complaints Procedure you should receive a full response within 28 days of your initial letter.

Only where there has been maladministration by the IAP causing an injustice, will the clerk consider whether a fresh hearing is justified.

If the clerk considers that your appeal was held correctly and in line with the relevant law and guidance, you will be advised of this decision and you may choose to refer your case to the Local Government Ombudsman (LGO).

WHO IS THE LOCAL GOVERNMENT OMBUDSMAN?

The LGO is an independent person who investigates allegations of maladministration causing injustice to the person who has complained. The LGO investigates complaints about most Council services and can look into cases where there has been a fault in the way the Council has or has not done something. He cannot question what has been done or decided because you do not agree with it. For example, the LGO could criticise a case where there was evidence of some administrative fault which affected the decision of the IAP, but he cannot criticise a decision which fairly took into account all the evidence presented by both the parents and the Admission Authority, but where the parents disagreed with the decision reached.

The LGO will also normally accept complaints about appeals even if you have not yet raised them with the Appeals Team. Therefore you may decide that you do not want to wait for a full response from the Appeals Team before approaching the LGO, depending on the timescale you have been given.

Contact details for the LGO can be found on page 17.

We are unable to enter into any further correspondence with you once you have obtained a decision from the LGO, even though you may still be dissatisfied.

FREQUENTLY ASKED QUESTIONS

My child has a disability. Will this affect my appeal?

If your child has a disability you may wish to discuss your appeal with his or her Headteacher and the Special Educational Needs Co-ordinator at the school. There is a space on the blue appeal form for you to tell us if your child is disabled and you should declare it if you believe this to be the case.

The IAP must consider whether your child is disabled and whether there has been discrimination within the meaning of the Equality Act 2010. Training takes place every year and is designed to make sure that appeal panels are aware of the laws and good practice in this area so that any decision they make is a lawful and fair one.

What do I do if I need special arrangements and/or a translator for the hearing?

Contact a member of the Appeals Team and we will try and make arrangements to accommodate you. If we are given sufficient notice, a translator can normally be provided at your request. Please, therefore, let us know as soon as possible if you require this free service.

Do I need legal representation?

An IAP hearing is not a court of law and so legal representation should not be necessary. It is your decision to take your own legal advice if you wish. It is important that you let us know at least seven days before your appeal hearing if you intend to bring a legal representative. We must inform the Admission Authority and panel of your intentions and we may have to make new arrangements for you.

Can a friend accompany me to the hearing?

Parents may be accompanied or represented by a friend or advisor provided they are not an employee of the school in question. This person may be (i) a Choice Advisor (ii) a locally elected politician or (iii) an employee of the local education authority (such as an educational social worker, SEN advisor or learning mentor); provided this will not lead to a conflict of interest.

I'm interested in becoming an IAP member – how do I express an interest?

Many of our IAP members started out as parents appealing on their own children's behalf and felt they were interested in

becoming a panel member. If you are interested in becoming an IAP member in the future, please telephone a member of the Appeals Team. We currently have a pool of approximately 80 IAP members and are always keen to hear from interested members of the public.

This advice has been prepared with reference to the statutory requirements and the Code of Practice on Admissions Appeals.

ANNE DAVIES
Head of Legal Democratic Services,
Buckinghamshire County Council

Appendix: Useful addresses

Enquiries about the contents of this book and the appeals process should be addressed to:

The Appeals Team
Legal and Democratic Services
Buckinghamshire County Council
County Hall
Aylesbury
HP20 1UA.

Tel: 01296 383384 / 383677 / 383695

Fax: 01296 382421

E-mail: appeals@buckscc.gov.uk

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

Admission and Transport Team
Access and Inclusion
Achievement and Learning
Children & Young People's Services
Buckinghamshire County Council
County Hall,
Aylesbury,
HP20 1UZ.

Tel: 01296 383250

Fax: 01296 383560

E-mail: admissions@buckscc.gov.uk

If you are not satisfied with how your appeal was conducted you may contact:

Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH
Advice Team: 0300 0610614
Fax: 024 76820001
Website: www.lgo.org.uk
Email: advice@lgo.org.uk

The Advisory Centre for Education offers a free leaflet on how to appeal and a free advice line:

Advisory Centre for Education
1c Aberdeen Studios
22 Highbury Grove
London
N5 2DQ
Tel: 0808 800 5793 (Freephone)
Fax: 020 7354 9069
Website: www.ace-ed.org.uk

The Equality and Human Rights Commission will be able to advise you in relation to any queries you may have about a disability.

The Equality and Human Rights
Commission Disability Helpline (England)
Freepost RRLL-GHUX-CTR
Arndale House
Arndale Centre
Manchester
M4 3AQ
Tel: 0845 604 6610
Fax: 0845 604 6630
Email: englandhelpline@equalityhumanrights.com
Website: www.equalityhumanrights.com

INFANT CLASS SIZE CHECKLIST

1.	You have received an Infant Class Size Appeal Pack	<input type="checkbox"/>
2.	You will need to return all forms and any supporting evidence to the Appeals Team	<input type="checkbox"/>
3.	You receive a letter of acknowledgement from the Appeals Team.	<input type="checkbox"/>
4.	You may wish to send any supporting evidence that was not available to you at the time of sending back your form.	<input type="checkbox"/>
5.	You receive a letter with a date and time for your appeal from the Appeals Team. Please note we will try to avoid any dates that you are unavailable, although occasionally this may not be possible.	<input type="checkbox"/>
6.	Approximately seven days before your appeal, you receive a copy of the Admission Authority's case, a copy of your own case, an Order of Business and a map.	<input type="checkbox"/>
7.	You need to attend the appeal hearing or let us know that you will not be attending.	<input type="checkbox"/>
8.	You receive the decision letter within seven days of your hearing or within seven days of the last appeal if there are several appeals for your preferred school.	<input type="checkbox"/>

NOTES