Somerset Council

# School Admission Appeals

## A guide for parents/carers on making an appeal and the appeal procedure

**MAKING AN APPEAL**

If you have applied for a place at a school and have not been offered a place you have a right of appeal against the decision. The Council will provide you with information on making an appeal and the appeal procedure. You are able to complete the relevant appeal form online via the appeals portal. If you require a paper appeal form, please email schoolappeals@somerset.gov.uk to request one be sent to you, but please note that this may result in a delay to your appeal.

You will need to complete your appeal form in as much detail as possible and should include all your reasons for making the appeal. Additional information/ evidence should be submitted by the appellant, via the online appeal portal where you logged your appeal.

The deadline for submitting additional information/ evidence for your appeal will be specified in your letter notifying you of your appeal hearing date. This will be received from the Democratic Services team in advance of your hearing.

If your appeal is for a place in an infant class (Reception, Year 1, or Year 2) please make sure that you read the section on infant class size appeals as the legislation regarding infant class size may affect your appeal.

**USEFUL CONTACTS**

If you require further information to assist you in making your appeal, you can contact:-

**School Appeals Officer**
Democratic Services Team
Somerset Council, County Hall, Taunton, TA1 4DY
*schoolappeals@somerset.gov.uk*

**School Admissions Appeal Coordinator**
Admissions and Entitlements Team
Somerset Council, County Hall, Taunton, TA1 4DY
*appealcoordinator@somerset.gov.uk*

## ARRANGEMENTS FOR THE APPEAL

Once your appeal form has been received, the Democratic Services team will arrange for an Independent Appeal Panel to hear your appeal. You will receive at least 10 school days notice (unless you have waived this right) of the date and time of the appeal hearing. You will receive a statement approximately 7 days before the appeal hearing. This statement will be from either the Local Authority or the school's Governing Body/Academy Trust (depending on whom the admission authority is for the school), and will explain the reasons why your child has not been offered a place at the school you applied for. A copy of all other documentation relating to your appeal will also be sent to you along with the statement.

Admission authorities must ensure that appeals lodged by the appropriate deadlines are heard within the following timescales:

- For applications made in the normal admissions round, appeals will be heard within 40 school days of the deadline for lodging an appeal

- For late applications, appeals should be heard within 40 school days from the deadline for lodging appeals where possible, or within 30 school days of the appeal being lodged

- For applications for in-year admissions, appeals must be heard within 30 school days of the appeal being lodged.

## WHAT IS THE APPEAL PANEL?

The Appeal Panel is independent of the Admission Authority (the Admission Authority being either Somerset Council or the school's Governing Body/Academy Trust, depending on the category of school) and is made up of three people who will determine your appeal. At least one panel member will be a layperson and at least one panel member will have experience in education. The Appeal Panel will not have any connection with the school you are appealing for or the alternative schools being offered and it would not have been involved with the original decision.

## CAN PARENTS/ CARERS ATTEND THE APPEAL HEARING?

At the appeal hearing, you are able to present your case to the Appeal Panel. We encourage you to attend if possible as it assists the Appeal Panel's understanding of the individual circumstances of your case. However, if you decide not to attend the appeal hearing, your appeal will be decided on the information available when the Appeal Panel meet. Whether you attend or not, the Appeal Panel will carefully consider all the written information that is submitted.

## CAN SOMEONE ELSE ATTEND WITH ME, OR ON MY BEHALF?

Yes, you can have somebody with you to help you present your case. You may be supported or represented by a friend, adviser, interpreter or signer who may speak on your behalf at the hearing. The friend or adviser can be a Choice Adviser, a locally elected politician, or an employee of the Local Authority (such as an educational social worker, special educational needs adviser, or learning mentor), provided that this will not lead to a conflict of interest. If you decide to be legally represented or require the services of a translator or signer, please let the School Appeals Officer know well in advance of the hearing. You are also able to have somebody speak on your behalf, even if you do not attend the hearing yourself, please let the School Appeals Officer know.

## WILL ANYBODY ELSE BE THERE?

A representative of the Admission Authority will be at the appeal hearing.

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 THE 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 Admission Authority representative will explain the reasons why your child has not been offered a place at the school you applied for. You and the members of the Appeal Panel will be able to ask questions on what has been said by the Admission Authority representative;

- Occasionally, if there are a large number of appeals for the same school, the case made by the Admission Authority may be heard on a group basis with all the parents present at the same time. Where this happens the remaining stages take place at separate hearings for each individual appeal as with all other appeals to preserve the confidentiality of each individual parental case.

- You will then be given the opportunity to present your case in support of your appeal. The Appeal Panel will already have all the written information that you have submitted.

- The members of the Appeal Panel and the school's representative will then be able to ask you questions if they need clarification on any points;

- There will then be a summing up stage, where initally the Admission Authority representative will be given the opportunity to sum up their main points and you will then have an opportunity to sum up your main points;

- The Chair of the Appeal Panel will then ask you and the school's representative to leave the appeal hearing. 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.

## THE DECISION MAKING PROCESS

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. If your appeal is for a place in an infant class (Reception, Year 1, or Year 2) please make sure that you read the section on infant class size appeals.

### APPEAL DECISION MAKING (except infant class size appeals)

### First Stage – examining the decision to refuse admission

The Appeal Panel must consider:

- 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 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 you are the only person appealing for a particular year group at a school (single 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 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 your child's case, and if they had been, your 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 year group at 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.

**Second Stage – balancing the arguments**

If the Appeal Panel has not found any grounds to allow your appeal at the first stage, it must move onto the second stage, which involves balancing the arguments.

The Appeal Panel must balance the prejudice to the school against your 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 you are the only person appealing for a particular year group at a school (single appeal) and the Appeal Panel decides that your case outweighs the prejudice to the school, the Appeal Panel must allow your appeal. If the Appeal Panel decides that your case does not outweigh the prejudice to the school, the Appeal Panel must refuse your appeal.

If the Appeal Panel is hearing more than one appeal for the same year group at the same school (multiple appeals); it must balance the arguments for each appeal. However, where the Appeal Panel finds that there are more appeals which outweigh the prejudice to the school than the school could cope with being allowed, the Appeal Panel must compare the cases and only allow those appeals with the strongest case for admission.

In balancing the arguments, the Appeal Panel must take into account your reasons for wanting your child to attend the school you are appealing for, and what it can offer your child that other schools cannot.

**APPEAL DECISION MAKING - 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 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 your 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 your 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 your 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 your appeal being allowed. The Appeal Panel is not permitted to balance your case against the school's case.

**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 admission of an additional child would not breach the infant class size limit.

- 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 your child's case, and if they had been, your 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 making your case in support of your appeal, **you must show** your child's admission would not breach the infant class size limit; **or that**: your child was refused a place as a result of admission arrangements which did **not** comply with the legal requirements of the School Admissions Code and the School Standards and Framework Act 1998; or that a mistake had been made by the Admission Authority, which if it had not happened, would have meant that your child would have been admitted to the school; or that the decision to refuse admission was not reasonable.

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 to be unreasonable, the decision to refuse to admit the particular child is irrational or perverse. The School Admissions Appeals Code (paragraph 4.10) states that '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 more than one infant class size appeal for the same year group at the same school (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.

**Second Stage – comparing cases**

The second stage will only be reached if the Appeal Panel are hearing multiple appeals and find that there are a number of children who should have been offered a place but admitting that number of children to the school would cause serious prejudice.

During the second stage of the decision making process the Appeal Panel must compare each appellant's case for their child to be admitted and decide which of them, if any, to allow.

## FURTHER APPEALS

If your appeal is unsuccessful then the only further right of appeal for a place at the same school is in each subsequent academic year. You do not have the right to another appeal for a place at the same school for the same academic year, unless, in exceptional circumstances, the Admission Authority has accepted a second application from you because of a significant and material change in circumstances but admission has been refused once again. An example of a significant and material change in circumstances would be a house move.

## THE DECISION

You will be sent the decision of the Appeal Panel in writing, within 5 school days of the appeal hearing.

Your decision letter will outline your next steps, depending on whether your appeal is successful or unsuccessful.

There is no right of appeal against the Appeal Panel's decision but if you consider that the appeals procedure has not been carried out properly, you are able to complain to the Local Government Ombudsman. If your appeal was for an Academy, however, you must complain to the Department for Education instead. Contact details below.

**The Local Government Ombudsman's Advice Line** (0300 061 0614)
https://www.lgo.org.uk/contact-us

**Department for Education**
https://assets.publishing.service.gov.uk/media/64183b388fa8f55572f9b259/Complaints_about_an_academy_independent_admission.pdf

## Appeal Summary

**Step 1**
You will be informed that following your application it has not been possible to offer your child a place.

**Step 2**
You have the right of appeal against the decision. Information on making an appeal and the appeal procedure, together with a link to the appeal form, can be obtained from the Council.

**Step 3**
The appeal form should be completed and returned as soon as possible after receiving the decision that your child has not been offered a place, or by any deadline given to you for appealing when you received your notification that your child had not been offered a place (you must be allowed a minimum of 20 school days to submit an appeal). Additional information can still be submitted after the appeal form has been returned but should be submitted before the deadline specified in your letter notifying you of your appeal hearing date

**Step 4**
Once your appeal form has been received, arrangements will be put in place for an Independent Appeal Panel to hear your appeal. You will be given at least 10 school days notice of the date and time of the appeal hearing. You will also be sent a statement from the Local Authority or the School's Governing Body/Academy Trust (depending on which is the admission authority for the school), and any other information or documents relating to your appeal, approximately 10 school days before the appeal hearing.

**Step 5**
The Appeal Panel will meet and consider your appeal.
You will be able to attend and present your case to the Appeal Panel.

**Step 6**
You will be sent the Appeal Panel's decision in writing, within 5 school days of the appeal hearing.