

**ODBE**Oxford Diocesan
Board of Education

Decision making in appeals hearings - Key stage 1

Appeals for a place in the majority of infant classes can only be upheld in very limited circumstances. The law requires that infant classes (Reception, Year 1 and Year 2) should not contain more than 30 pupils with a single teacher.

The grounds for allowing an infant class size appeal are extremely limited and the success rate is very, very low.

It may be more appropriate to consider these cases as reviews of the original decision rather than an appeal to which new evidence can be presented.

What will the Appeal Panel consider at the appeal hearing?

By law, when considering an Infant Class Size Appeal the Appeal Panel must consider the following matters:

- Whether the admission of an additional child/additional children would breach the infant class size limit;
- Whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admission Code and Part 3 of the School Standards and Framework Act 1998;
- Whether the admission arrangements were correctly and impartially applied in the case(s) in question; and
- Whether the decision to refuse admission was one which a reasonable admission authority would have made in the circumstances of the case.

This means that the Appeal Panel will look carefully to see if the admission of another child would break the law. It will also look at whether the admission arrangements for the school in question are legal and were applied correctly and whether in the circumstances it was reasonable not to offer your child a place at the school.

In some cases the Appeal Panel may also consider whether the admission of an additional child would cause a breach of the infant class size limit in the future. This is sometimes the case if a school has mixed year group classes, for example vertical grouping.

If the Appeal Panel identifies any unlawful admission criteria during the course of an appeal hearing it must refer these immediately to the Admission Authority.

In what circumstances can an Appeal Panel allow an Infant Class Size Appeal?

An Appeal Panel may only uphold an appeal where:

- It finds that the admission of additional children would not breach the infant class size limit; or
- It finds that the admission arrangements did not comply with admissions law or had not been correctly and impartially applied and the child would have been offered a place if the arrangements had complied or had been correctly and impartially applied: or
- It decides that the decision to refuse admission was not one which a reasonable authority would have made in the circumstances of the case.

Due to these limitations, an Appeal Panel cannot take into account your personal reasons (such as: childcare arrangements, children attending different schools, travel or work arrangements, academic performance etc) for wanting a place at the school for your child, so you will need to consider whether your reasons for lodging an appeal fits these grounds.

On rare occasions an Appeal Panel may find that there has been a mistake in how the school's admission arrangements were implemented. However, it is not enough that an error was made, the Appeal Panel can only uphold an appeal in this situation if it finds that the child should have been granted a place at the school if the admission arrangements had been correctly applied.

Many parents feel strongly that the decision to refuse their child a place at the school in question was not reasonable. To allow an appeal on these grounds the Appeal Panel must be satisfied that the decision to refuse to admit your child was 'perverse in the light of the admission arrangements' for example:

- 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 accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it.

It would be unusual for this to be the case if the admission arrangements were lawful and had been correctly and impartially applied. It is also likely that an Appeal Panel would consider it entirely reasonable for a child to be refused a place at their nearest school, if other children had higher priority for the places available, even if this results in you being offered a school place some distance from your home.

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