

**APPEALS PROCEDURE
A GUIDE FOR PARENTS**

SCHOOL STANDARDS AND FRAMEWORK ACT 1998

YOUR RIGHT TO APPEAL

Parents (or the legal guardians of children) have a legal right to express a preference as to the school at which they wish their child to be educated. This is not a right to choose a school, but a right to express a preference.

If you are refused a place for your child at your preferred school, you have the right to appeal against the decision of the Admissions Authority. For a Voluntary Aided School the Admissions Authority is the Governing Body. In North Somerset, agreement has been reached with some Voluntary Aided schools for the Local Education Authority (LEA) to administer the admission and appeal process. However, the decision is that of the Governing Body, even where the Governing Body has asked that a representative of the LEA should present their case at the appeal hearing.

The right of appeal is provided under section 94 of the School Standards and Framework Act 1998. While an appeal is a legal process, it should not be an intimidating experience, especially if you are well prepared and well informed. This document will help you to be well prepared and well informed.

The following guidelines try to explain each stage of the appeals procedure by answering some of the questions you may have. If you have any queries please contact the Clerk to the Appeals Panel at North Somerset Council. Tel: 01934 634981. In addition the Advisory Centre for Education operates an advice line, and provides on-line leaflets for parents on admissions and appeals. ACE may be contacted at 1c Aberdeen Studios, 22 Highbury Grove, London N5 2DQ. Advice line: 2-5pm Mon – Fri on 0808 800 5793. Website: www.ace-ed.org.uk

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SECTION A – HOW TO APPEAL

(If you have already sent your letter / appeal form go to section B).

HOW CAN I APPEAL?

The letter from the LEA/Governors refusing the place will give you the reasons for refusal. You may talk to the school or an officer of the LEA about the reasons why your request has been refused. Only the LEA will be able to advise you about what alternative school places are available. The letter will also tell you the date by which appeals should be submitted. Your appeal statement (i.e. your reasons for appealing) **MUST** be made in writing.



WHAT INFORMATION SHALL I INCLUDE IN MY APPEAL LETTER?

You should put down all the reasons why you wish your child to attend your preferred school. This is your opportunity to explain why you prefer your child to attend the school in question. You may also explain why you do not want your child to attend the school offered as an alternative to your preferred school. The panel will take these reasons into consideration when making its decision. Remember to enclose any letters or documents you have referred to in your appeal statement, such as evidence of medical reasons in the form of a letter from your doctor/hospital. The Admission Authority may wish to show this letter to its own medical advisor.

The admission criteria of an Aided School will often refer to the membership of the local parish church or other place of worship within the area. If you feel that a church school will offer the religious education and worship you especially want for your child, you should mention this. It may also be helpful for you to seek the support of your local minister. You may want this ethos, even if you do not worship regularly in a church.

However if your appeal is a ‘class size’ appeal the power of appeal panels to allow appeals are limited (see section D). You should explain in your statement why it is you believe that no reasonable admissions authority would make the decision that it did. Or alternatively you should state why your child would have been offered a place if the admission arrangements had been properly implemented.



SECTION B - BEFORE THE APPEAL HEARING

WHAT HAPPENS WHEN I HAVE SUBMITTED AN APPEAL?

The Clerk to the Panel will arrange for your appeal to be heard as soon as possible. Most appeals for admission in the Autumn Term will be heard during the Summer Term.

When the hearing has been arranged the Clerk will confirm the arrangements with you in writing. This will be done at least 14 days before the hearing unless you agree in writing that you do not need that much notice.

The papers relating to your appeal will be sent to you at least 7 days before the hearing (unless you have waived your right to the period of 14 days notice of appeal).

DO I NEED TO ATTEND?

Parents are strongly encouraged to attend the hearing to present their case. It gives you the chance to explain why you want a place at the school and to ask questions. The Appeal Panel can talk to you and get a clear understanding of your case. If you decide not to attend the hearing a decision will be reached based on your written statement.

CAN I BRING ANYONE ELSE WITH ME?

You are welcome to bring a friend or relative to support you or speak on your behalf. If you are unable to attend in person, someone else may present the case for you.

DOES MY CHILD HAVE TO COME?

It is certainly not necessary for your child to attend the hearing. It is your appeal and your child is not a party to the proceedings. Indeed Panel Chairmen discourage children from attending these proceedings, which can be emotionally stressful. It is regretted that no childcare facilities are available.

DO I NEED LEGAL REPRESENTATION?

Proceedings are informal and therefore legal representation will not usually be necessary.

DO I NEED TO TELL THE CLERK WHETHER I OR ANYONE ELSE WILL BE ATTENDING?

Yes, please. The clerk will send you a form on which you can state whether or not you intend to attend the hearing. If you intend to be accompanied or represented please let the Clerk know by indicating this on the response form.

SECTION C - THE HEARING

WHO IS ON THE APPEAL PANEL?

In North Somerset, panels usually have three members, although it is possible that they may have five members. For Voluntary Aided Schools, there will normally be two members on the Panel who will have been appointed or nominated by the appropriate church authority.

The panel must include at least one lay member. A lay member is someone without personal experience in the management of a school or the provision of education in a school (disregarding experience as a school governor or in another voluntary capacity).

The panel must also include at least one person who has experience in education, is acquainted with educational conditions in the area of the authority or are parents of registered pupils at a school.

Although panel members may be school governors or teachers, they will not be a governor or teacher at the school in question. They will not represent the interests of the Governing Body of your preferred school or LEA.

The panel is independent of the Governing Body and the LEA and all members are keen to ensure that they are truly independent and have no vested interest in the outcome of an appeal. Panel members are not paid and neither report to or are responsible to the Council. They work within the guidelines set down in the national statutory Code of Practice on School Admission Appeals.



WHAT HAPPENS AT THE HEARING?

Immediately before the hearing the Clerk to the Panel will meet you and explain the procedure that will be followed during the hearing. S/he will answer any questions you may have on the appeal process. The usual procedure is:

- i) presentation by the Admission Authority representative
- ii) questioning by parent and panel
- iii) presentation by parent
- iv) questioning by the Admission Authority representative and panel
- v) summing up by the Admission Authority representative
- vi) summing up by parent



At the hearing itself, the Chair of the Panel will introduce you to everyone present in the room.

When all the evidence has been heard, you and the Admission Authority's representative will leave the room.

The Clerk to the Panel attends the hearing to take notes of the proceedings. The Clerk also stays with the panel when they consider their decision so that s/he can offer advice on procedure or law, and to record the decisions made. However the Clerk takes no part in making the decision.

SECTION D – THE DECISION

HOW DOES THE PANEL REACH ITS DECISION?

Appeal panels are required to take into account parental preference and the arrangements published by the admission authority. School admission authorities are under a duty to comply with parental preference except in certain limited circumstances including:

- a) *if compliance with the preference would prejudice the provision of efficient education or the efficient use of resources**; or
- b) *if the preferred school is a foundation or voluntary aided school and compliance with the preference would be incompatible with any special arrangements to preserve its religious character (N.B. this provision does not apply after the 2003-4 school year)*

*(These are known as ‘prejudice’ appeals. This includes prejudice which may arise by reason of measures required to be taken in order to ensure compliance with the duty imposed to comply with the limit on infant class sizes (‘class size prejudice’) – see ‘infant class size prejudice cases’ on next page for explanation of what this means).

There is a two-stage process for all ‘prejudice’ appeals except where ‘class size prejudice’ is an issue.

Stage 1 – a factual stage

The Panel considers whether ‘prejudice’ would arise were the child to be admitted. The onus at this stage is on the representative of the admission authority. The panel will consider a number of factors such as the school’s admissions level. It is not enough for the admission authority to show that the admission level has been reached: it should also demonstrate what prejudice would be caused by admitting an additional pupil.

If the Panel feel that the admission authority has not proved its case the Panel will allow the appeal and offer your child a place at the preferred school.

The panel will also need to consider whether the admissions criteria for the school were correctly applied to the pupil concerned; and if not, whether this led to the child in question being refused admission, whereas proper application of the criteria would have led to their acceptance. In that case, the panel should uphold the appeal and not go onto the second stage.

However if the Panel feels that the admission authority has satisfied them that there would be prejudice then the appeal panel will move to Stage 2 of the decision making process.



Stage 2 – a balancing stage

The panel will exercise its discretion, balancing between the degree of prejudice and the weight of the parental factors. The panel will take into account the reasons you have given for your preference and will balance the case presented by the admissions authority against your case. If they feel that the reasons you have put forward in support of your appeal outweigh the admissions authority case they will offer you a place at your preferred school.

Infant ‘class size prejudice’ cases

Legal limits on class sizes mean that infant classes will, as a general rule, not contain more than 30 pupils. Infant classes are classes in which the majority of pupils will reach the age of 5, 6 or 7 during the school year.

This means that admission authorities are not required to admit a child to an infant class where to do so would mean that they could not keep class sizes to a maximum of 30 pupils, without taking qualifying measures. Qualifying measures would include, for example, employing an additional teacher and / or building an extra classroom.

The admission authority can, therefore, refuse to admit a child to a school where to do so would cause class size prejudice, that is to say, prejudice to efficient education or efficient use of resources as a result of the measures that would need to be taken to comply with the duty to limit the size of infant classes. This means that if the school has to take measures to comply with its duty to limit infant class sizes either in the current year or believes it will have to do so in future years, then the grounds for appeal are limited.



The grounds on which a panel can uphold an appeal are much narrower in this type of appeal. An appeal panel will be able to uphold an appeal only if they are satisfied of one of the following limited reasons –

- a) *the decision was not one which a reasonable admission authority would make in the circumstances of the case; or*
- b) *that the child would have been offered a place if the admission arrangements had been properly implemented*

Ground a

The appeal panel is not able to substitute its own judgement and take the original decision again, but has to review the decision made by the admission authority and the reasons for it. The panel will consider whether the admission authority acted unreasonably. The law defines 'unreasonable' very carefully in these cases. For the decision to be 'unreasonable' it must be completely illogical or perverse. The panel will consider all the circumstances of the case including the circumstances of the child and family, parental preference and the local authority's admission arrangements. The essential question for the panel will be whether it was perverse in the light of the admission arrangements to refuse to admit your particular child.

Ground b

It is not enough that there has been a mistake in implementing the school's admission arrangements. To uphold an appeal the panel must also be satisfied that, had the arrangements been carried out properly, the child would have been admitted to the school.

WHAT HAPPENS IF OTHER PARENTS ARE APPEALING FOR PLACES IN THE SAME YEAR GROUP AND SCHOOLS AS I AM?

This situation usually arises when pupils are either due to be admitted to a reception class of an infant or a primary school, or are transferring from infant to junior, or from junior to secondary education, and more parents have asked for places than are available.

Where several parents are appealing for places at the same school, every effort is made to ensure that all these appeals are heard by the same panel on the same day, to ensure that each case is treated equally.

If your appeal forms part of a number of appeals for a particular school (commonly referred to as 'bulk' appeals), the panel will hear all appeals for that school before reaching any decision. Sometimes due to the number 'bulk' appeals will last several days but the panel will make no decisions until all appeals have been heard.

SECTION E – AFTER THE HEARING

WHEN WILL I KNOW THE RESULT OF MY APPEAL?



The Clerk will notify you of the Panel's decision in writing. This will be done within 7 days of the hearing of the last appeal for each school. It is normally possible for parents to telephone the Clerk within 24 hours of the last hearing to be told the decision.

IS THE PANEL'S DECISION BINDING?

The decision is binding on the Governing Body of the School concerned and the LEA.

There is no right of appeal against the decision. However with the decision letter the Clerk will give you a leaflet explaining what you can do next after a hearing. This includes the possibility of complaint to the Secretary of State or Local Government Ombudsman, Judicial Review in the High Court or in exceptional cases second appeals.

The only body that can quash a decision is the High Court via judicial review, and both parties to the appeal, i.e. parents and Admission Authority, have the right to apply for judicial review.