

Background Information

Birmingham City Council as Local Authority (LA) is the **admission authority** for community and voluntary controlled schools in Birmingham.

The LA also works with other admission authorities in the Birmingham area, such as Academies and Free Schools, to administer the appeals for those admission authorities.

Where you have been refused a place at a school or academy you have the right to appeal against that decision to an Independent Appeal Panel (The Appeal Panel) set up under the School Standards and Framework Act 1998.

The Appeal Panel is **completely independent** of the admission authorities and the decisions it makes are binding on the LA, the school or academy and on you.

What happens before the Appeal?

You will have already been advised of the reasons for refusing a place for your child/children at your preferred school or academy and your right of appeal. You may have already included information supporting your appeal on your appeal form. If not, you should send your completed form to the LA's School Admissions and Pupil Placements Service.

You now have to decide whether you want to attend the Appeal Hearing (the Appeal) in person, and tell the Appeal Panel in your own words, your reasons for wanting your child/children to attend a particular school or academy.

Can the Appeal be heard in your absence?

You may decide you do not want to appear in person, but have your appeal dealt with on the basis of a written statement. This is known as having your case dealt with in absence. In this case the Appeal Clerk will ensure that the Appeal Panel is given all the correspondence you have submitted before a decision is made.

When do the Panels meet and when will you be informed of your Appeal?

Appeals take place throughout the school year to consider appeals but the Summer Term is particularly busy hearing appeals for children starting Reception Class and appeals for those children transferring from primary to secondary school in the September.

What happens when the Appeal date has been agreed?

Once appeal dates have been arranged, you will be given 10 school days' notice of the time and date of the Appeal Hearing. However, if there are special circumstances and you agree, the Appeal may be arranged sooner. You will be sent the appeal papers as soon as possible before the Hearing, including the LA's written statement setting out its case for refusing your request for a particular school or academy.

This information, along with any information you have provided will also be sent to members of the Appeal Panel.

Any additional information you want passed on to the Appeal Panel, needs to be with the Appeal Clerk four working days before the Hearing and you are asked to provide 5 copies.

If you bring additional information to the hearing the Appeal Panel will decide whether to consider it, taking into account its significance (to reduce delays please bring 5 copies).

Your Appeal Hearing date may only be changed in exceptional circumstances.

Are you able to attend the Hearing?

If you are unable to attend the Appeal on the date arranged, you need to inform the Appeal Clerk as soon as possible, as it may be possible to make alternative arrangements. Revised dates are only set in exceptional circumstances.

If, however, you are not at the Appeal and the Appeal Clerk has not received an explanation for your absence, the Appeal Panel may consider your appeal on any statements or other written material you have submitted.

Does the Appeal affect your position on the waiting list?

The majority of schools and academies operate a waiting list for each year group. If a school or academy is unable to offer a place the child may be placed on a waiting list for that particular year group in accordance with the school or academy's oversubscription criteria.

The waiting lists and the appeals process are two completely separate things.

If you decide to appeal, this will not affect your waiting list position.

The Appeal Panel has **no power** to move parents up or down the waiting list and is not allowed to take account of your waiting list position.

Who will be at the Appeal?

The Appeal Panel will consist of three people. These are the Independent Appeals Panel.

They are **not** councillors or employees of the Council.

The Panel is made up of a combination of independent and lay members, defined as follows:-

- (i) A non-lay member who has experience in education, will be acquainted with the educational conditions in the area of the Local Authority, or a parent of a registered pupil at the school in the area;
- (ii) A lay member will be a person without personal experience in the management of any school or provision of education in any school (otherwise than as a Governor or in any other voluntary capacity).

An Appeal Panel must comprise at least one Panel Member from each of the above categories.

A LA Officer will be present to put the school or academy case forward. She/he will be able to answer any questions you have regarding both the school or academy case and how the admission arrangements have been applied to your child.

Only the three Appeal Panel Members and the Appeal Clerk are present at the time the decision(s) is/are made.

The Appeal Clerk will also be present. The Appeal Clerk will take no part in the decision-making process but has the responsibility to ensure that the relevant facts are established, the appeal process is followed and the appeal is fair.

Other than these persons, the Appeal is held in private and everything that is said is strictly confidential.

Is the Appeal Panel like a Court?

NO. The Appeal is conducted as informally as possible.

You can bring a friend or a member of your family along with you, either to help you say what you want or to speak for you, or simply give you support. Legal representation ought not be necessary and the Appeal should be an informal but structured forum.

However, if you do decide to be legally represented, you need to tell the Appeal Clerk before the Appeal as the Appeal Panel may wish to seek its own legal advice.

May I bring my Child to the Appeal?

The Appeal Panel usually feels that this is unnecessary and that a child should not miss school as a result, but the decision is really yours. You know whether your child could cope with the experience.

What happens at the Appeal Hearing?

You will be allocated a time for your Appeal and you are asked to arrive five minutes before that allocated time. However, due to the volume of appeals it may be that the Panel is running over and, therefore, the Panel kindly requests you to be patient. Your appeal will be heard on the date of your appointment.

At the Appeal the Appeal Panel Chairperson will introduce all the parties and explain the proceedings to you.

Based on previous experience, appeals take approximately 20 minutes and both you and the LA Officer will have the opportunity to fully address the Appeal Panel. This does not mean that you will only be allowed 20 minutes. You will be allowed as much time as it takes to present your case.

The Appeal will normally go ahead as follows:-

- Case presented by the LA Officer;
- Questions to the LA Officer from the parents and the Appeal Panel;
- Parents' case;
- Questions to the parents from the LA Officer and the Appeal Panel;
- Summing up of the case by the LA Officer;
- Summing up of the case by the parents.

Summing Up

You will always have the final say at the Appeal but summing up is optional and not a chance to repeat your case again. You only need remind the Appeal Panel of the main points of your case and tell them anything new that you forgot to say earlier on. Once the Appeal is over you and the LA Officer will be free to leave the room.

Neither you nor the LA representative will be allowed in the room without the other one and the Appeal Clerk being present.

What can I say?

You should feel free to say whatever you think is relevant to your argument. (There are some limits on the grounds for upholding infant class size appeals which may affect this, please see below.)

Both the Appeal Clerk and the Appeal Panel will want to make sure that you do not leave the Appeal thinking things have been left unsaid.

Appeal Clerks are often asked by parents to advise them what to say at the Appeal. As the Independent/neutral person in the process, the Appeal Clerk is not allowed to do this. However, at previous appeals to yours, other parents have often used the same arguments, such as:-

- All of your child's friends will be going to the particular school;
- You can choose the school you want. (NO – the law says you can express a preference for a school, but you do not have the legal right to a choice of school);
- One school is closer/better than another;
- Your child has a medical condition that means they should attend the school;
- Your child has siblings at your preferred school;
- Parents often raise issues relating to transport, work commitments, and child care arrangements.

You are free to raise any of the above points and any others relevant to your circumstances.

However, the Appeal Panel has to balance the prejudice that would be caused to the school or academy if another child was to be admitted, against the level of prejudice that would be caused to your child if they were not admitted. Appeal Panels have previously

decided that the above arguments were in some cases not strong enough to outweigh the LA's case and the appeals have been dismissed.

This is advice based on past experience and is not meant to stop you from appealing. However, you must carefully consider the case that you want to present.

Consider also whether you need to produce evidence to support your case before the appeal. For example, if your case is that your child has a medical condition, the Appeal Panel will expect to see some supporting evidence of the condition, such as a letter from your GP or a hospital.

Infant Class Size Appeals - (Reception, Years 1 and 2)

The Government has placed very restrictive legal limits on the size of infant classes. This means that, generally, there can be no more than 30 pupils with a single teacher for Reception Year and for Years 1 & 2. Due to these strong restrictions the success rate of the appeals is very low.

The Government has also restricted the circumstances in which an Appeal Panel can uphold appeals for classes where the limit of 30 has already been reached.

These are as follows:-

- (a) The Appeal Panel finds that the admission of additional children would not breach the infant class size limit.
- (b) Your child would have been offered a place if the published admission arrangements had been applied properly.
- (c) Your child would have been offered a place if the arrangements had not been contrary to the school admissions Code and legislation.
- (d) The decision to refuse to admit your child was not one which a reasonable admission authority would have made in the circumstances of the case.

You need to be aware that an appeal can only be upheld if one or more of the above reasons can be proved.

You should, therefore, carefully consider your case before proceeding with your appeal.

How does the Appeal Panel make a Decision?

The Appeal Panel having heard and read the case for both parties will consider all the information available very carefully, before making their final decision. If the Appeal Panel is hearing a number of appeals for one particular school or academy, decisions will not be made available until all the appeals for that school or academy have been heard.

In some cases appeals can be spread over a number of days. For appeals (other than infant class size appeals) the Appeal Panel in making their decision follow a two stage process.

- (i) First stage – the panel considers whether the published admission arrangements comply with the School Admissions Code and the School Standards and Framework Act 1998 and were correctly applied to your child's case and decides whether there would be prejudice caused to the school or academy by admitting another child (in multiple appeals, additional children). If the Panel decides that the school or academy would not be prejudiced by admitting another child and yours is the only appeal being heard for that school or academy, your appeal will be allowed. If, however, the Panel decides that prejudice would be caused by admitting another child / additional children, they go on to consider (ii) below.
- (ii) Second Stage – the Panel will consider the reasons given by you for wanting the school or academy and whether they are strong enough to outweigh the prejudice which would be caused by letting another child into the school or academy.

Can I appeal if I don't live in Birmingham?

Yes you can. Exactly the same appeal procedure will apply. However, any parent who does not live in Birmingham should contact their own Local Authority about school places.

Please do **not** wait until your appeal has been heard in Birmingham before you contact your own Local Authority. If you do, you may find there are a limited number of places left.

Where does the Appeal take place?

Appeal hearings are held at The Council House Victoria Square Birmingham B1 1BB.

Further Information

Completed appeal forms should be sent to the LA's School Admissions and Pupil Placements Service, PO Box 16513, Lancaster Circus, Birmingham B2 2FF.

General telephone enquiries regarding the appeals process should be made to the Children's Information and Advice Service on 0121 303 1888.

The admissions process is regulated by the Department for Education which has issued the School Admissions Code and the School Admission Appeals Code; copies are available on the DfE website – www.education.gov.uk

Decisions made by independent Panels are binding unless overturned by a Court. Complaints regarding maladministration on the part of an appeal Panel for a maintained school can be made to the Local Government Ombudsman and in the cases of Academies to the Education Funding Agency.

If you need to talk to the Clerk about your appeal please call 0121 303 3668.

Written enquires to the Appeal Clerk should be made to: Appeal Clerk, Education Appeals Team, PO Box 15992, 10 Woodcock St, Birmingham, B7 4BL.