

Notes of Guidance for all Derby City Community and Voluntary Controlled School Appeals

This leaflet contains very important information about school admission appeals. You should read this leaflet carefully before completing the appeal form.

Legal Background

The School Standards and Framework Act 1998 requires every admissions authority to make arrangements for parents to express a preference for the school they want their child to attend and to give reasons for that preference. If the admissions authority is unable to offer the school place, the School Standards and Framework Act 1998 also require the admissions authority to give parents the opportunity to appeal against the decision not to admit their child to the preferred school.

Types of Appeals

Infant Class Size Prejudice (ICSP) Appeals These are where the infant classes, Reception, Year 1 and Year 2 have already reached the Government's legal limit of 30 pupils and if any more pupils are admitted, this limit would be breached.

Where a pupil has been refused admission to a school because an infant class has already reached its legal limit of 30 pupils, The Independent Appeal Panel (the Panel) can only allow the appeal in **very limited, prescribed and exceptional circumstances**. The prescribed exceptions are:

- a) Children admitted outside the normal admissions round with full statements of special educational needs or education health care plans specifying a school;
- b) Looked after children and previously looked after children admitted outside the normal admissions round;
- c) Children admitted, after initial allocation of places, because of a procedural error made by the admission authority or local authority in the original application process;
- d) Children admitted after the Panel upholds an appeal;
- e) Children who move into the area outside the normal admissions round for whom there is no other available school within a reasonable distance;
- f) Children of UK service personnel admitted outside the normal admissions round;
- g) Children whose twin or sibling from a multiple birth is admitted otherwise than an excepted pupil;
- h) Children with special educational needs who are normally taught in a special educational needs unit attached to the school, or registered at a special school, who attended some infant classes within the mainstream school.

If your child has been refused admission to a school on ICSP grounds, the Panel can only offer a place to the child where it is satisfied that either the:

- Admission of additional children would not breach the infant class size limit; or
- Admission arrangements did not comply with the admissions law or were not 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
- Decision to refuse admission was not one which a reasonable authority would have made in the circumstances of the case.

Non Infant Class Size Prejudice (ICSP) Appeals

The Panel is not restricted by the law that applies to ICSP appeals and has much more discretion when considering a family's personal, social and domestic circumstances. If the panel agrees that a family's circumstances outweigh the school's case, the panel will allow the appeal.

How to Appeal

Appeals can be made in writing on the Council's School Admission Appeal Form which can be obtained by telephoning School Admissions on 01332 642727 by the deadline stated on your decision letter.

When submitting an appeal you should:

- Tell us all your reasons for wanting a place at the school.
- Include copies of any written supporting information, letters, documents or evidence which you would like the Panel to consider at the hearing.
Please note: If you bring evidence to the hearing which has not been previously submitted, the Panel may not consider it.
- Provide reasons (if applicable) why you think that your case should not be heard as an Infant Class Size Prejudice Appeal.

What happens next?

The Council will acknowledge receipt of your appeal in writing.

The Appeals Panel Officer will then write to you at least 10 school days before the hearing telling you where and when your appeal will take place. The letter will also include a copy of your original appeal and the school's case.

On-time Appeals

Appeals received before or on the deadline date will be heard within 30 school days.

Late Appeals

Appeals received after the deadline date will be heard within 40 school days.

Preparing for the Appeal Hearing

You should read through all papers which are sent to you by the Appeals Panel Officer; make a note of any questions that you may wish to ask on the case or anything that you do not understand or you do not agree with. You can then raise these points at the appeal hearing.

You do not have to attend the hearing as your appeal can be considered from the written reasons you have given. However, we strongly encourage you to attend so that you can give more details for your case and answer any questions the Panel may have.

If you are unable to attend the hearing and will be sending someone to represent you, they must have a signed letter of authority from you allowing them to attend and present the appeal on your behalf.

If you are unable to attend the hearing, or have any additional needs, please contact Sarah Baines, Appeals Panel Officer on 01332 643651 or via email sarah.baines@derby.gov.uk

Can I take someone with me?

You can take anyone to support or represent you at your appeal hearing. This could be a friend, partner or other family member. Local Councillors, Special Educational Needs Advisers, Social Workers and Family Support Workers may also be able to help, support or represent you during the hearing providing that this does not lead to a conflict of interest. You can also obtain your own legal advice or representation if you wish to do so; however, the Council cannot be responsible for any costs incurred.

You **cannot** take an employee of the school you are appealing for, an Elected Member of the Council who has a direct role in relation to school admissions in Derby City.

Can my child attend?

We don't recommend that your child attends the hearing as it can be distressing for some children.



Derby City Council

The Appeal Hearing

Most appeals will take place at The Council House, Corporation Street, Derby. DE1 2FS. When you arrive, please go to the main reception desk to tell them you are here. When the Panel is ready to hear your appeal, the Appeals Panel Officer will collect you from reception.

The hearing will be as informal as possible but will follow a set procedure to make sure that every appeal is dealt with in the same way.

Stage 1:

This stage of the appeal is only about the school's case.

The Presenting Officer will explain why your application has been refused and will present information about the school to show any impact on the school if any more children are admitted. You can ask questions about the school's case; the Panel will also ask the Presenting Officer questions.

At the end of Stage 1, it is the Panel's role to make a decision on the school's case; they must do this in private without you or the Presenting Officer in the room. If the Panel agree the school's case has not been made, they will allow the appeal at this stage. If the Panel agree that the school has made its case, the appeal moves to Stage 2.

Stage 2:

This is your chance to explain your circumstances and why you want your child to go to the school. When you have said everything you want to, the Presenting Officer and Panel may ask you some questions about your case; you will then be asked if you have said everything you want to about your case.

At the end of the hearing, you and the Presenting Officer will be asked to leave the hearing so that the Panel can reach their decision independently of both parties.

When will I know the decision?

The Appeals Panel Officer will write to you to let you know the Panel's decision as soon as possible after the hearing and within five working days.

What if my appeal is successful?

Your child will be offered a place at the school and the school will contact you to discuss the admission arrangements.

What if my appeal is unsuccessful?

The decision of the Panel is final and binding on parents, the Council and the school. Derby City Council staff, City Councillors or even Members of Parliament **cannot** change the decision.

You could contact the Admission Section on 01332 642728 or email admissions@derby.gov.uk for advice about getting a place at another school, or to check where your child is on any waiting lists. It is important to note that children can move both up and down waiting lists and there is no guarantee that a place will become available.

Further Appeals

You have the right to appeal for the same school once every academic year. However, the law says if your situation, that of a child or the school you were appealing for changes significantly, you **may** be able to have another appeal within the same year. If you think this is the case, you should contact the Sarah Baines, Appeals Panel Officer on 01332 643651 or email sarah.baines@derby.gov.uk

Finally

You are legally responsible for making sure your child attends a school or is receiving education other than at a school.

Can I complain?

If you consider that the Panel did not follow the proper procedures, you can complain to the Local Government Ombudsman (LGO) in writing to:
Local Government Ombudsman, PO Box 4771, Coventry.

You can also contact them by:

Tel: 0300 061 0614

Email: advice@lgo.org.uk

Website: www.lgo.org.uk

The LGO is not able to overturn the Panel's decision but, where they find that there has been a procedural error, they may make recommendations for a suitable remedy. For example, they may recommend that an appeal is reheard by a different Panel with a different Appeals Panel Officer.

Further Independent Advice

You may find it useful to contact the Advisory Centre for Education (ACE) – an independent national advice service centre for parents of children in state funded schools. They offer information and advice on education, including school admission appeals. They can be contacted on 0300 0115142 Monday to Wednesday between 10:00 and 13:00 (term time only) or via their website www.ace-ed.org.uk