

# School Admissions Appeals

## Guidance for Appellants

These notes provide general help and guidance for people attending a School Appeal arranged by the Education Appeals Secretariat at Havering. They are not a substitute for the relevant legislation, Codes or the policies of Admission Authorities.

If you have a specific query not covered in the booklet, please read the FAQ document (linked at the end of this booklet) or please contact the Secretariat by telephone on **01708 433076** and we will do our best to help.

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### Your Right to Appeal

If you have been refused a place at your preferred school by the Admission Authority, you have the right, as stated in the School Standards & Framework Act 1998, to appeal against the decision.

**Please note: Although Human Rights legislation gives your child the right to be educated; it doesn't give them the right to be educated at a specific school.**

### The Appeal Process

After you have sent in your appeal application via the Havering website, you will be notified shortly of the date and time of your appeal. All hearings are held at the Havering Town Hall.

**If you do not submit all your supporting documentation before the deadline, the Appeal Panel will have to decide whether or not to accept the late paperwork. This may mean that the hearing is adjourned to a later time to allow all parties to consider the extra paperwork.**

You should attend the appeal hearing. You can, if you so wish be accompanied by a friend or a legal representative. If English is not your first language, please contact the appeal secretariat who can arrange for an interpreter to be present. If you cannot attend, the Appeal Panel will consider your case on the written submissions only.

**It is important that you state your case at the appeal hearing as fully as possible. Everything that is said during the hearing is strictly confidential.**

During the hearing, you will be given the opportunity to explain to the Appeal Panel why you believe that your child should go to the preferred school rather than the school you have been allocated. You are advised to submit evidence in support of your case where appropriate e.g. medical reports, appointment letter and/or employment details.

**The Appeal Panel cannot take into consideration your child's position on the school's waiting list.**

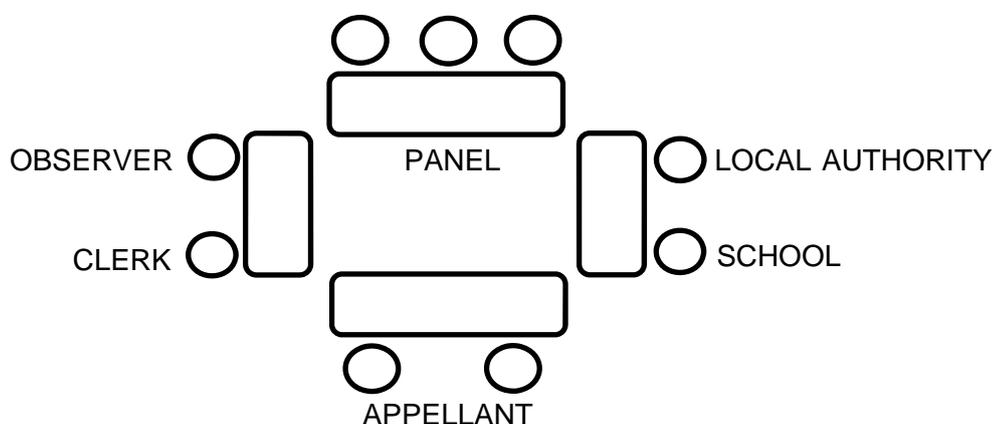
If you believe the distance from your child's home address to the address of your preferred school is incorrect, please contact the Admission Authority before the hearing so they can check and confirm the correct distance.

Upon your arrival at the Town Hall, you will be taken to a waiting room where the Clerk to the Appeal Panel will greet you and explain briefly the procedure of the hearing.

The Appeal Panel consists of one "Lay" member, one "Experienced" member and a Chair who can be from either category. The Appeal Panel are volunteers, unpaid and independent from Havering Council and the School you are appealing for.

**If you find out that any of the panel are known to you on receipt of the appointment letter, please contact the Appeal secretariat as soon as possible on 01708 433076.**

The layout of the room will follow the format below:



The procedure for your appeal is as follows:

1. The Chairman will greet you and will explain in full the proceedings and will ask each person to introduce themselves.
2.
  - a. The school's case will be presented by the representative of the Admission Authority.
  - b. You and/or your representative and the Appeal Panel will be given the opportunity to ask questions of the Admission Authority and of the School.
3.
  - a. You and/or your representative will present your case.
  - b. The Appeal Panel and Admission Authority will be given the opportunity to ask questions of you or your representative.
4. The Admissions Authority will sum up the schools case.
5. You and/or your representative will sum up your case.
6. You, the Local Authority and School Representative will leave the room and the panel will come to a decision in private, although the Clerk will remain in the room and will advise the Panel on the legal aspects of the decision but will have **no** part in making the decision whatsoever.

If you believe the appeal process was conducted unlawfully, you have a statutory right to make a complaint to the Local Government Ombudsman (LGO) or the Education and Skills Funding Agency (ESFA) if your preferred school is an academy.

LGO: <https://www.lgo.org.uk/>

ESFA: <https://www.gov.uk/government/organisations/education-and-skills-funding-agency>

## The Decision Process

The Independent Appeal Panel will apply a two-stage test to the appeal. They will decide whether your child should have been allocated a place. The Independent Panel must consider the evidence in front of them, the prejudice which may be caused to the school, its resources and the efficient education of children already enrolled in admitting another child against the prejudice caused to your child if they are not allocated a place at your chosen school.

*For more information on School Appeals, follow this link:*

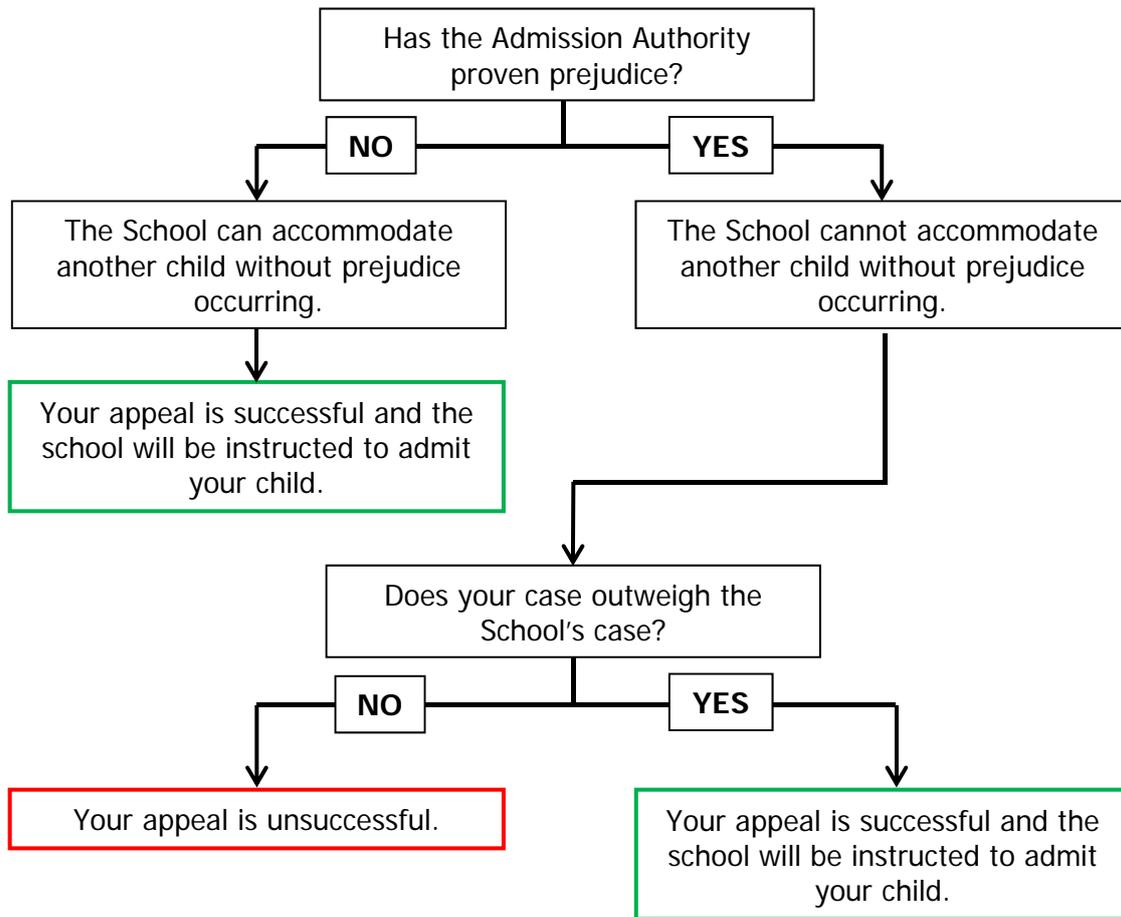
<https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/school-admissions>

The decision letter will be sent to you within 5 school days, but this may be longer when there are multiple appeals on multiple days.

The decision made by the appeal panel is lawfully binding on both you and the Admission Authority.

**The flow chart on the next page shows the decision making process.**

**In Year Transfer Appeal Decision Process**



## Normal Admissions Round/Cohort Appeals Decision Process

The School Admission Appeals Code (February 2012) explains the decision process (Section 3: Reaching Decisions on Appeals):

### ***"Two stage process"***

3.1 Panels **must** follow the two stage decision making process below for all appeals except for infant class size appeals which are dealt with in section 4.

### ***First stage – examining the decision to refuse admission***

3.2 The panel **must** consider the following matters in relation to each child that is the subject of an appeal:

- a) whether the admission arrangements (including the area's co-ordinated admission arrangements) complied with the mandatory requirements of the School Admissions Code and Part 3 of the School Standards and Framework Act 1998; and
- b) whether the admission arrangements were correctly and impartially applied in the case in question.

3.3 The panel **must** then decide whether the admission of additional children<sup>11</sup> would prejudice the provision of efficient education or the efficient use of resources.

3.4 In all cases, the panel **must** refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements that do not comply with admissions law.

3.5 The panel **must** uphold the appeal at the first stage where:

- a) 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
- b) it finds that the admission of additional children would not prejudice the provision of efficient education or efficient use of resources.

3.6 However, in multiple appeals where a number of children would have been offered a place, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel **must** proceed to the second stage.

3.7 The panel **must** proceed to the second stage where:

- a) it finds that the admission arrangements did comply with admissions law and that they were correctly and impartially applied to the child; or
- b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that, if they had complied and had been correctly and impartially applied, the child would not have been offered a place and it finds that the admission of additional children would prejudice the provision of efficient education or efficient use of resources.

### ***Second stage – balancing the arguments***

3.8 The panel **must** balance the prejudice to the school against the appellant's case for the child to be admitted to the school. It **must** take into account the appellant's reasons for expressing a preference for the school, including what that school can offer the child

*that the allocated or other schools cannot. If the panel considers that the appellant's case outweighs the prejudice to the school it **must** uphold the appeal.*

*3.9 In multiple appeals, the panel **must not** compare the individual cases when deciding whether an appellant's case outweighs the prejudice to the school. However, where the panel finds there are more cases which outweigh prejudice than the school can admit, it **must** then compare the cases and uphold those with the strongest case for admission. Where a certain number of children could be admitted without causing prejudice, the panel **must** uphold the appeals of at least that number of children."*

## Infant Class Size Appeals

The LGO states " *The law states that there must not be more than 30 children in an infant class (that is, classes containing reception, year 1 and year 2 children). This applies even if other adults are always present, and/or some children are absent. There are a few circumstances in which an additional child or children may be classed as an 'exception' and the class sizes goes over 30. But if children leave and the class size returns to 30, that does not mean extra children can be admitted again. The Government has listed the circumstances in which a child can be classed as an exception. They include: twins, children of armed services parents, looked after children, and children who have special educational needs.* "

The School Admissions Code states: " *Additional children may be admitted under limited exceptional circumstances. These children will remain an 'excepted pupil' for the time they are in an infant class or until the class numbers fall back to the current infant class size limit. The excepted children are:*

- *looked after children and previously looked after children admitted outside the normal admissions round*
- *children of UK service personnel admitted outside the normal admissions round*
- *children whose twin or sibling from a multiple birth is admitted otherwise than as an excepted pupil"*

The School Admissions Code can be found here:

<https://www.gov.uk/government/publications/school-admissions-code--2>

The LGO also states that " *If the admissions authority has made a mistake in applying the admissions criteria which means you have been wrongly denied a place, then the panel will uphold the appeal. Such mistakes might be:*

- *not taking account of a sibling at the school*
- *not measuring the home to school distance accurately*
- *not considering the child an 'excepted' pupil*
- *wrongly allocating a place to an out-of-catchment child.* "

For more information on Infant Class Size Appeals, follow this link:

<https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/infant-class-size-appeals>

**The flow chart on the next page shows the decision process for Infant Class Size Appeals.**

## Infant Class Size Appeal Decision Process

The School Admission Appeals Code (February 2012) explains the decision process for Infant Class Size appeals (Section 4: Infant Class Size Appeal):

### **" Two stage process**

*4.1 Regulations<sup>16</sup> made under Section 1 of the School Standards and Framework Act 1998 limit the size of an infant class (a class in which the majority of children will reach the age of 5, 6 or 7 during the school year) to 30 pupils per school teacher<sup>17</sup>. Only in very limited circumstances can admission over the limit be permitted<sup>18</sup>.*

*4.2 This section deals only with appeals where an admission authority refuses to admit a child on the grounds that the admission of an additional child would breach the infant class size limit and there are no measures it could take to avoid this without prejudicing the provision of efficient education or efficient use of resources. Decisions on appeals for infant classes where the refusal was for any other reason should be made in accordance with the two stage process in section 3.*

*4.3 Panels **must** follow the two stage decision making process below when considering infant class size appeals<sup>19</sup>. Paragraphs 3.20 (children with disabilities), 3.22 (waiting lists) and 3.23 – 3.24 (Fair Access Protocols) of this Code also apply in relation to this process.*

### **First stage – examining the decision to refuse admission**

*4.4 The panel **must** consider all the following matters:*

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

*4.5 The panel **must** immediately refer to the local authority and the admission authority (if the appeal is for a school that is its own admission authority) any aspects of the admission arrangements it identifies as unlawful.*

*4.6 The panel **may** only uphold the appeal at the first stage where:*

- a) it finds that the admission of additional children would not breach the infant class size limit; or*

*b) it finds that the admission arrangements did not comply with 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*

*c) it decides that the decision to refuse admission was not one which a reasonable admission authority would have made in the circumstances of the case.*

*4.7 In multiple appeals where a number of children would have been offered a place under paragraph 4.6 above, and to admit that number would seriously prejudice the provision of efficient education or efficient use of resources, the panel **must** proceed to the second stage.*

*4.8 The panel **must** dismiss the appeal at the first stage where:*

*a) it finds that the admission arrangements did comply with admissions law and were correctly and impartially applied; or*

*b) it finds that the admission arrangements did not comply with admissions law or were not correctly and impartially applied but that, if they had complied and had been correctly and impartially applied, the child would not have been offered a place;*

*and it finds that the decision to refuse admission was one which a reasonable admission authority could have made.*

### **Second stage – comparing cases**

*4.9 The panel **must** compare each appellant's case for their child to be admitted and decide which of them, if any, to uphold. Where the school could admit a certain number of children without breaching the infant class size limit (or without needing to take measures to avoid breaching it that would prejudice the provision of efficient education or efficient use of resources) the panel **must** uphold the appeals of at least that number of children."*

## Glossary of Terms

**Normal Admissions Round/Cohort Appeals** – Appeals for admission into Year Reception, Year 3 for Junior Schools and Year 7.

**In Year Transfer Appeals** – Appeals for admission to a different school during the school year.

**Prejudice** – Whether one extra child to a class will negatively affect the day to day school life of the children already attending that school.

**“Lay” Panel Member** – A panel member who has no experience in the education system.

**“Experienced” Panel Member** – A panel member who has been previously involved in the education system. For example a governor or ex-teacher.

For more in depth and comprehensive answer, please read our “FAQ and Useful Addresses” document using this link:

[https://www.havering.gov.uk/download/downloads/id/977/school\\_admission\\_appeals\\_faq\\_and\\_useful\\_addresses.pdf](https://www.havering.gov.uk/download/downloads/id/977/school_admission_appeals_faq_and_useful_addresses.pdf)

If you still require assistance, please contact the Secretariat by telephone on **01708 433076** and we will do our best to help.