

School Admission Appeals Notes of Guidance for Leicester City Infant, Junior and Primary Schools



This guidance explains how to make an appeal and what happens at an appeal hearing. You should read this guidance **before** completing the online appeal form.

What does the Law say?

The School Standards & Framework Act 1998 gives parents a right to express a preference as to the school they would like their child to attend.

The Admissions Authority must comply with this preference **if** there are places.

When the year group of your preferred school has reached its admission limit (the published admission number), the Admissions Authority will not be able to offer you a place.

Your refusal letter **must** state the reason you have been refused and will one of the following two reasons:

- The year group is full and Leicester Education Authority feels that to admit any more children to the school would adversely affect the education of those already in the school. This is often called a “Prejudice Appeal” in which there will be prejudice to the provision of efficient education and / or the efficient use of resources’.
- The year group is full and to admit further children would breach the Infant Class Size Regulations.

What is Infant Class Size?

Regulations limit the size of an infant class (Reception, year 1 and year 2) with one teacher to 30 pupils. The Admission Authority can refuse to give a child a place if it would take a class over 30 pupils and cause ‘class size prejudice’.

The Infant Class size prejudice only applies where schools operate classes of 30 at Key Stage 1; Reception, Year 1 and Year 2.

Only in very limited circumstances can admission over the limit be permitted.

What are Appeals?

The School Standards and Framework Act 1998 gives parents the right of appeal against any decision affecting their child. As you have been refused a place for your child at your preferred school, you are entitled to attend an appeal hearing in front of an Independent Appeal Panel. **You can only appeal for the school you have been refused for.**

Who is the Independent Appeal Panel?

Your appeal will be heard by an Independent Appeal Panel who has the power to overturn the original decision. Their decision is legally binding on the Local Authority and the School.

The Panel will be made up of at least three trained members who will **not** have any connection with the Leicester City Council or any of the schools they are hearing appeals for.

The Panel will include at least one “Lay-Member” and one “Person Experienced in Education”.

Lay Members are people without personal experience in the management of any school or the provision of education in any school.

Person Experienced in Education are people who have experience in education, who are familiar with educational conditions in the City, or who are parents of pupils at a school.

These Panel members are unpaid and **Independent**.

How to Appeal

You must complete the online form and attach any relevant evidence to support your appeal.

What happens next?

The Legal Services Division of the City Council will acknowledge any appeal lodged and will also arrange an appeal hearing. You will be given at least **ten school days'** notice of when the appeal Panel hearing will take place. Appeal hearings are usually heard in one of the Council's buildings in the city centre and every effort will be made to try to hear your appeal at a date and time to suit you, but please appreciate that due to the volume of appeals it may not always be possible to do so.

At least **five working days** before the hearing take place, Legal Services will send you a statement from the Council explaining why your application was refused and the circumstances at your preferred school.

Preparing for the Appeal Hearing

You should read through the statement and other papers. Make a note of any questions that you may wish to ask 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.

We strongly encourage you to attend so that you can give a detailed explanation of your reasons for your appeal. Appeal Panels usually ask questions about what you have written. It can be difficult for them to make the best decision without all the information.

If you wish to attend your appeal hearing but are unable to, please contact the School Appeals Service as soon as possible. Please note that an appeal will not routinely be adjourned to suit the convenience of appellants. **If you do not attend the appeal hearing in person, it will be heard in your absence.** In these circumstances, it is extremely important to write down as much as possible regarding your case, as the Panel will make a decision based upon the written evidence you provide.

If you have any specific needs, for example if you have a disability or you need the help of an interpreter, please indicate this on your Appeal Form online.

Can I take someone with me?

You can take anyone of your choice with you to support or represent you at your appeal hearing. This could be a friend, partner or other family member. Locally elected politicians, Special Educational Needs Advisers, Social Workers, Learning Mentors and the Choice Adviser may also be able to help support or represent you during the hearing provided that this does not lead to a conflict of interest. You are also free to have legal representation if you wish.

Please indicate this on your online Appeal Form.

You **cannot** take along an employee of the school that you are appealing for, or an elected member of the Council who has a direct role in relation to school admissions in Leicester City.

Can my child attend?

Yes your child may come with you to the hearing. However, you need to consider that this can be distressing for some children and unless there are exceptional circumstances we recommend that children do not attend.

Who else will be at the appeal hearing?

As well as yourself and the Panel members there also will be:

- a presenting officer (a representative from the Leicester City Council, which is responsible for admissions to the school), who will explain why your application has been refused
- a clerk, who is responsible for ensuring that the Panel follows the law and the correct procedure and will make sure that a complete and accurate record is taken of the points raised at the hearing. The clerk is not a member of the Panel and is not involved in making the decision about your appeal. However, the clerk will notify all parties of the Panel's decision in writing.

The Appeal Hearing

The Appeal will be heard in two stages:

Stage One

The Education Case - the Presenting Officer will explain why your application was refused. Their reasons will also be set out in their statement of case. This documentation will be sent to you before you attend the appeal.

After the presenting officer has presented the school case, parents will be invited to ask any questions and the Panel will also have the opportunity to ask questions.

Other parents, who are appealing for a place at the school, may be present during this part of the appeal. This is because the school case is about establishing that either Infant Class Size rules apply or there would be 'prejudice to the provision of efficient education and/or the efficient use of resources' and it ensures that all parents have the opportunity to hear the school case. In the first part of the hearing, there is no discussion about the individual circumstances of any of the appellants.

In "Prejudice Appeals" there *may* be a short adjournment at the end of this stage of the appeal for the Panel to decide if the case for prejudice has been proved by the presenting officer. If prejudice is not proven, the appeal hearing will end at this stage and you will be informed that your appeal has been successful.

However, if prejudice is proven, the appeal moves to the second stage.

Multiple Appeals

In multiple appeals for the same school and year group, where a number of children would have been offered a place, but 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. The Panel will be required to compare the cases and uphold those with the strongest case.

Stage Two

You will be given the opportunity to put forward your case and for you to explain why you want your child to go to the school. When you have said everything you want to say, the Presenting Officer and the appeal Panel may ask you questions.

At the end of the hearing, you will be given the opportunity to summarise the main points of your case, so that the Panel is left with a clear idea of why you want your child to go to the school and how important it is to you.

Decisions

Decisions will be made by the Panel after they have heard all the cases for the relevant school. Neither the parents nor the Presenting Officer will be present during

the decision making. The Legal Clerk will present but has no decision making power. The Legal Clerk will be documenting the decision.

In “**Prejudice Appeals**”, The Appeal Panel will balance the prejudice to the school against your case for wanting the school place. If the Panel considers your reasons outweigh the prejudice to the school it will allow your appeal.

The Appeal Panel may only uphold an **Infant Class Size** appeal if:

- (a) it finds that the admission of an additional child would not breach the ICS 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) the decision to refuse admission was not one which a ‘reasonable’ admission authority would have made in the circumstances of the case. The threshold for finding that an admission authority’s decision to refuse admission was not one that a reasonable authority would have made is high. The Appeal Panel will need to be satisfied that the decision to refuse to admit the child was ‘perverse in the light of the “admission arrangements’ i.e. 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 of accepted moral standards that no sensible person who had applied his mind to the question could have arrived at it’

When will I know the decision?

The clerk will write to you to inform you of the Panel’s decision usually within five school days. When there are a number of appeals for a school (known as multiple appeals), no decisions will be made until all the appeals have been heard. The letters informing parents / guardians of the decision will be sent out at the same time.

The decision letter will confirm the options available to you.

What if my appeal is successful?

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

The decision of the appeal Panels is binding on parents, Leicester City Council and schools. The decision cannot be changed by anyone employed by the local authority (Leicester City Council), or by City Councillors or even by Members of Parliament.

Further appeals

You do not have the right of a second appeal for the same school for the same academic year except where the local authority agrees to a second appeal because of faults in the first appeal, or if the authority accepts that a further appeal is warranted because of a significant and material change in circumstances. These changes would have to be factors which affected the level of priority of your application.

If you think this applies in your case, you should contact the School Appeals Service and email them on schoolappeals@leicester.gov.uk.

If you feel that the appeal Panel has not followed proper procedures (leading to maladministration causing injustice) you may complain to the Local Government Ombudsman. The role of the Ombudsman is not to review the substance of a decision made by a Panel but to see if there was any administrative fault in the way the decision was reached.

The Ombudsman can be contacted at:

Local Government Ombudsman,
The Oaks No 2,
Westwood Way,
Westwood Business Park,
Coventry
CV4 8JB
Tel: 02476 820000 Advice line: 0845 602 1983

Seeking advice:

You may find it useful to contact the following:

- Leicester City Council's Choice Adviser can help to guide you through the process
Choice Adviser (Sue Dales): 0116 257 5026
- **Advisory Centre for Education (ACE)** – an independent national advice centre for parents of children in state schools. They offer information and advice on state education, including admission appeals. They can be contacted by telephone on 0808 800 5793 weekdays 10am – 5pm or through their website www.ace-ed.org.uk