

# Infant Class Size Prejudice Appeals Guidance (Reception, Year 1 and Year 2)



THE ROYAL BOROUGH OF  
KENSINGTON  
AND CHELSEA

## 1. HOW TO LODGE AN APPEAL

Once you have read this guidance and have decided that you wish to lodge an appeal, you should complete the enclosed appeal form and return it to the School Admissions Team within 14 days from the date indicated in the top left hand corner on the appeal form. Your appeal will be considered by an Independent Appeal Panel (IAP).

**We aim to acknowledge receipt of your appeal within seven school days. If you have not received an acknowledgement letter by this time, please contact the Admissions Team on 020 7361 2210 to ensure we have received your form.**

## 2. WHO ARE THE INDEPENDENT APPEAL PANEL (IAP) MEMBERS?

IAP members are specially trained volunteers who have an interest in education within The Royal Borough of Kensington and Chelsea. Each IAP is made up of three members, a Chairman and two wing members and must consist of at least one Lay and one Non Lay member, in line with the School Admission Appeals Code of Practice. Lay members are people without personal experience in the management or provision of education in any school, disregarding experience in a voluntary capacity, such as a school governor. Non Lay members have experience in education and are familiar with educational conditions in the area or they are parents of a registered pupil at a school.

Some people are not permitted to hear education appeals. This includes any person employed by the Local Authority in a capacity connected with education. IAP members are trained regularly on the law and its procedures in relation to education appeals.

## 3. COMPLETING THE APPEAL FORM

Parents wishing to appeal for a place at a school where a place has been refused, must do so in writing. You must complete all sections of the form and ensure that you state the name of the school that you are appealing for, and the reasons why you are appealing. If you wish to appeal for more than one school you will need to complete separate appeal forms.

## 4. PROVIDING YOUR EVIDENCE

IAP members will need to read evidence about each case well in advance of the hearing and are sent the documentation that you provide in relation to your appeal, to all parties seven working days before the hearing. You do not need to send all your evidence to us when you first submit your appeal form but it is advisable to submit all evidence well in advance of your appeal hearing for the IAP members to consider.

**Please note, if you provide significant evidence for your appeal either within ten days of the appeal or on the actual day, it may be necessary for the appeal to be adjourned to a later date. This is to allow the IAP members time to read and consider the evidence and where necessary, for the Admission Authority to be in a position to respond.**

## **5. WHAT HAPPENS NEXT?**

Approximately seven working days before your appeal you will be sent a copy of the Admission Authority's detailed reasons for refusing your application, a copy of your own case, including a copy of the appeal form, and an Order of Proceedings. You will also be notified of the name of the Clerk and the three IAP members that will hear your appeal. Please note, however, that these names are subject to last minute change in unavoidable circumstances. All parties will receive exactly the same information as you.

## **6. WHAT WILL HAPPEN IN AN INFANT CLASS SIZE APPEAL?**

If there are several appeals lodged for the same school it is often decided to hold a 'grouped multiple appeal hearing'. This will mean that the presenting officer's case in respect of the school is heard once at the First Stage of the appeal proceeding in the presence of all appellants including any representatives who may question the case. At the First Stage the IAP considers whether the school's published admission arrangements comply with mandatory legal requirements. The IAP will also consider whether admitting another child to the school would be prejudice to the efficient provision of education or efficient use of resources. If the IAP concludes that prejudice will be caused, the hearing proceeds to the Second Stage at which the IAP will hear each child's appeal individually without the presence of others. At the Second Stage the IAP will consider whether the admission arrangements were correctly applied in your child's case and will decide if your reasons for wishing your child to be admitted to the school outweigh the degree of prejudice to the school. If it is not felt necessary to hold grouped appeals, the First and Second Stage will be held at the same time at individual hearings. You will be sent written notice of the date and time of the hearing at least ten school days in advance of the hearing, unless you have waived this right.

The grouped appeal hearing will proceed in the following way:

### **First Stage:**

1. The IAP chair welcomes everyone and explains the procedure
2. The case for the admissions authority is heard
3. Questioning by the parents and IAP

### **Second Stage:**

4. The case for the parents is heard
5. Questioning by the admission authority and IAP
6. Summing up by the admission authority
7. Summing up by the parents.

The Clerk will remain in the room with the IAP members at all times. At no stage during the appeal will either party (you or the Admission Authority's representative) remain in the presence of the IAP members without the other. The emphasis in every appeal hearing is on informality, fairness and transparency.

You will be given as much time as you need to present your case to the members of the IAP. No one can tell you what your circumstances are for appealing but it is normally expected that your presentation should take approximately 15 minutes.

**At the end of your appeal the Chairman will ask you if you have had time to say everything you wish to say. Please do make sure at this stage that you have mentioned all the reasons and provided all the evidence that you wish to. There is no further opportunity to do so after you have left the room and the appeal is over.**

**Please note that the Admission's Authority representative will not be able to discuss your appeal with you either directly before or after your hearing.**

## **7. HOW SHOULD I PRESENT MY INFANT CLASS SIZE APPEAL CASE?**

For infant classes there are very limited circumstances in which an IAP can direct a child to be admitted to a school. Infant classes (i.e. those where the majority of children will reach the age of 5, 6 or 7 during the school year) must not contain more than 30 pupils with a single teacher.

Where a child has been refused an infant place because it would prejudice the efficient provision of education or efficient use of resources the IAP can only offer a place to your child if it is satisfied that either:

- a) your child would have been offered a place if the admission arrangements had been properly implemented;**
- b) your child would have been offered a place if the admission arrangements had complied with the mandatory requirements in the School Admissions Code and the School Standards & Framework Act 1998 ("SSFA");**

**and/or**

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

If you are appealing under **a)**, you must show that there has been an error in the way the admission arrangements were applied. You must also show the IAP that if this error hadn't occurred, your child **would** have been offered a place.

If you are appealing under **b)**, you must show:

- i) that the admission arrangements have not complied with the School Admissions Code and SSFA and**
- ii) had the admission arrangements complied with the mandatory requirements of the School Admissions Code and the SSFA, your child **would** have been offered a place.**

If you are appealing under **c)**, you must show why the decision to refuse admission to your preferred school was not a reasonable one. The word 'reasonable' in this instance is given a legal meaning, rather than its everyday meaning. That is to say that the IAP must decide whether the decision is so perverse that no reasonable Admission Authority could make that decision to refuse admission.

For schools that have a published admissions limit of 45, it is often the case that Infant classes are mixed but may not be organised as such until Year 1 or 2 (i.e. Year 2 mixed with Year 3 = 45+45=90 divided into 3 classes of 30 pupils in each class.) This will mean that future class size prejudice would apply and the admission of an additional child would lead to Year 2 exceeding the infant class size limit unless the school takes remedial

measures, such as recruiting an additional teacher. This information will be included in your appeal statement if the above applies to the school you are appealing for.

If your appeal is successful the school will be obliged to comply with the legislation and take qualifying measures to accommodate your child. These special measures may include employing another teacher and/or building another classroom. Any argument you provide alleging unreasonableness must therefore be a particularly strong one.

## **8. WHEN AND WHERE WILL MY APPEAL BE HEARD?**

Admission appeals can take place at any time during the year because families move home throughout the year and often find their preferred school is full. You have 14 days from the date of notification to return your appeal form and you will be given a minimum of 10 days notice for a date of appeal. Appeals do not normally take place during the school holidays.

If you are appealing for a primary reception place for the forthcoming academic year, your appeal must be heard within 40 school days after the closing date for appeals to be lodged or before the end of the summer term, whichever is sooner. There is no guarantee that your appeal will be heard in accordance with these deadlines if you do not submit your appeal by the date provided in your notification letter.

Your appeal may begin at anytime between 9am and 5pm and will be held at the Royal Borough of Kensington and Chelsea Town Hall, Horton Road, W8 7NX in a Committee Room. **You should be aware that appeals often start later than the time they have been allocated and this is because everyone is given as much time as they need to present their case.**

## **9. DO I NEED TO ATTEND THE APPEAL HEARING?**

You do not have to attend but you know your child best and therefore you are the most appropriate person to tell the IAP members about your child. You may send a representative on your behalf if you prefer with signed authorisation that they have your permission to represent you at the appeal hearing. This permission should be provided to the Clerk before the appeal in advance. IAP members do understand that it is not always possible for parents to attend. If you do not wish to, or find that you cannot attend your appeal on the day, for whatever reason, the IAP members will make their decision based on the information you have submitted. If you choose not to attend, please let us know in advance so the Clerk does not expect you.

**If you wish to withdraw your child's appeal, please make sure that you let the School Admissions Team know as soon as possible on Tel: 020 7361 2210 or email: [school.admissions@rbkc.gov.uk](mailto:school.admissions@rbkc.gov.uk)**

## **10. HOW DO THE IAP MAKE THEIR DECISION AND WHEN WILL I BE NOTIFIED?**

The IAP reaches a decision in private, by a majority vote.

If the IAP is considering a large number of appeals for the same school, it will not make a decision about an individual case until all parents have had a chance to put their case forward.

The Clerk to the IAP will write to you and the Admissions Authority usually within seven working days of hearing your appeal. In cases of multiple appeals that are heard over a

number of days, the outcome of the decision will be later as all appeals must be heard before decisions are made. The letter will state clearly the reason for the decision and what matters were considered.

#### **11. WHAT CAN I DO IF MY APPEAL IS UNSUCCESSFUL AND I AM NOT HAPPY WITH THE DECISION?**

You are not able to appeal twice for a place at the same school in the same school year unless the Admission Authority agrees that your first appeal wasn't conducted properly or they accept that there has been a change in your circumstances.

If you are not happy with the outcome of your appeal and think your appeal hearing was not managed properly you can contact the Local Government Ombudsman (LGO). The LGO is an independent person who investigates allegations of maladministration causing injustice to the person who has complained. Contacting the LGO isn't the same as an appeal and the Ombudsman can't overturn an IAP's decision. They can, however, recommend that your appeal is heard again before a new IAP if they find your appeal hearing was not managed properly.

Local Government Ombudsman, PO Box 4771, Coventry, CV4 0EH  
Tel: 0845 602 1983 (Mon-Fri 8.30am to 5pm); or email: [advice@lgo.org.uk](mailto:advice@lgo.org.uk)

**Should you have any queries on the admissions process or further details for the reason for your child's refusal, you should contact the School Admissions Team on 020 7361 2210 or email [school.admissions@rbkc.gov.uk](mailto:school.admissions@rbkc.gov.uk).**

**Any queries regarding Appeal Proceedings you should contact Governance Services on 020 7361 2067.**

Date dispatched:

Pupil Id:

### Appeal Form for refusal of a school place on the Grounds of Infant Class Size Prejudice

- Please refer to the guidance before completing this form.
- Where necessary please use additional sheets, clearly stating the section to which the sheet relates
- You must return your appeal form within 14 days of receiving notification of the refusal of a school place at your preferred school.
- If appealing for more than one school, please complete only one form per school.

**Name of school for which you are appealing:** \_\_\_\_\_

#### Part 1. Pupil's Details:

Childs Surname:..... Childs Firstname:.....

Date of Birth: ...../...../..... Gender (please circle): **M / F**

Address:.....

.....

.....Postcode: .....

#### Part 2. Details of person lodging appeal:

Title (please circle): **Mr / Mrs / Ms / Miss / Other**

Surname: ..... Firstname: .....

Relationship to Child (please circle): **Parent / Guardian / Carer / Other**

Address (if different from child): .....

.....

..... Postcode: .....

Telephone number:.....

Email address (optional): .....



